



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1461 of 2021

1. R.Rajesh
2. Vijayaraj

... Petitioners/Accused No.2 & 4

Vs

State Rep.by
The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.
Crime No.117 of 2019.

... Respondent/Complainant

For Petitioners: Mr.N.Mohideen Basha,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

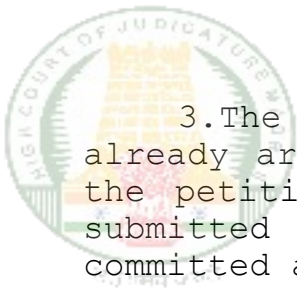
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.117 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 and A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 457 and 380 of IPC, seek anticipatory bail.

2.The case of the prosecution is that on 25.05.2019, the respondent police received a complaint from one John Ebenezer, S/o.Chellappan that he has been running a Super Market at Pinamthode, Kulasekarm Post in the name and style of KCN Super Market and on 24.05.2019 at 10.45 p.m., he closed the shop and went to his house. On 25.05.2019 at 06.30 a.m, when he came to the shop to open, he found that the lock was broken and shutter of the shop was opened and found Rs.63,000/- cash was found missing from the shop and a hard disc worth about Rs.20,000/- was also committed theft. Total value of the things lost is Rs.83,000/-. Hence, he made a complaint before the respondent police and the same has been registered.



3.The learned counsel for the petitioners submitted that A1 was already arrested and released on bail. On the confession of A-1, the petitioners are falsely implicated in this case. He further submitted that the petitioners are innocent and they have not committed any offence as alleged by the prosecution.

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4.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that all the accused persons have broken the shutter of the shop and theft a sum of Rs.63,000/- cash and a hard disc. He further submitted that A-1 bike was recovered from the police and the investigation is pending. Hence, he opposed to grant anticipatory bail to the petitioners.

5.Considering the rival submissions, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;



(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/02/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.II,
PADMANABHAPURAM, KANYAKUMARI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
KULASEKARAM POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.1461 of 2021

Date :04/02/2021

SJI

MS/VR/SAR-2/11.02.2021/3P.5C