



WEB COPY

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

Date : 11/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2223 of 2021

1. Soundarapandian
2. Jeya

... Petitioners/Accused Nos.A1 and A2

Vs

The State rep.by
The Inspector of Police,
Nagamalai Police Station,
Madurai District
Crime No.15/2021.

... Respondent/Complainant

M.Vasantha

...Petitioner/Intervener/Defacto Complainant
IN CRL MP(MD)No.1959 of 2021
IN CRL OP(MD)No.2223 of 2021

For Petitioners : Mr.D.Rameshkumar,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

For Intervenor : Mr.M.Sarangan, Advocate

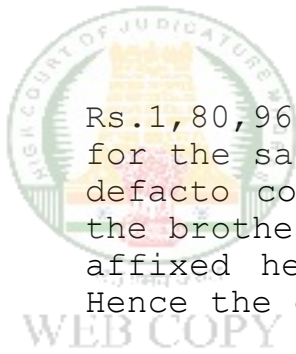
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime no. 15 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420,468,471,109 and 506(i) of IPC seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant received a notice from Shriram City Union Finance Ltd, Madurai stating the as on 10.12.2019 the outstanding loan amount is



Rs.1,80,960/- and the defacto complainant is one among the guarantor for the said loan and when the loan particulars are verified by the defacto complainant it was found that the first petitioner who is the brother of the defacto complainant produced forged ID cards and affixed her photos with the signature and obtained the loan. the Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. He would also submit that the first petitioner and the defacto complainant are brother and sister. He would further submit that they did not have knowledge about the forged documents. The loan has been paid and nothing is available as on today. Due to some misunderstanding arose she along with other family members have filed a suit for partition and the same is pending in O.S.No.73 of 2019 on the file of the V Additional District Judge, Madurai.

4. The learned counsel for the intervenor would submit that A1 is working as Assistant in Computer science department of Sri Meenakshi Government College for Women and he misused his designation and created forged ID card of the said college, hence he opposed to grant anticipatory bail to the petitioner.

5. The learned Government Advocate(Crl.Side) would submit that the first petitioner who is the brother of the defacto complainant produced forged ID cards and affixed her photos with the signature and obtained the loan from the Shriram City Union Finance Ltd, Madurai.

6. It is seen that the first petitioner had taken personal loan from the Shriram City Union Finance Ltd, Madurai in which the defacto complainant who is none other than the sister of the first petitioner stood as guarantor and it was projected as she is working as a professor in the Sri Meenakshi Government College for Women and had also signed as guarantor. The defacto complainant is a uneducated lady and she has not signed as guarantor and now the personal loan has been repaid and nothing survives in the finance. The second petitioner is arrayed as accused since he is the witness to the said personal loan. The Hon'ble Apex Court in the case of **Gian Singh vs. State of Punjab [2012 (10) SCC 303]**, has held that the offence under Sections 468 and 471 of IPC can be quashed in cases where the dispute is personal and documents involved are private documents and in this case the personal loan is now discharged, hence nothing survives for investigation. Since the loan has been discharged and the entire documents have been consumed to dust bin, the respondent police has some apprehension in closing the complaint since the case was registered as per the Court direction. Further it is seen that civil suit is pending between the first petitioner and the defacto complainant in O.S.No.73 of 2019 on the file of the V Additional District Judge, Madurai. In view of the same, the police nothing survives for further investigation, the



defacto complaint hesitate to settle the issue and this case might be used as a tool arrive at a settlement in the partition suit.

7. Taking into consideration the facts and circumstances of the case this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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.VI, Madurai 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 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;

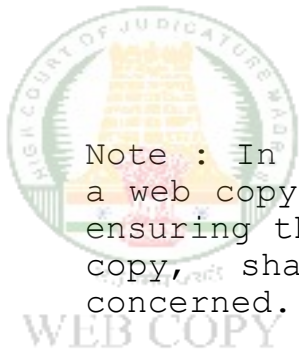
(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid 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/-
11/03/2021

/ TRUE COPY /

/ /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.VI,MADURAI.
- 2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
NAGAMALAI POLICE STATION, MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.D.RAMESHKUMAR, Advocate SR.No.10749[F]

ORDER
IN
CRL OP(MD) No.2223 of 2021
Date :11/03/2021

AAV
AE/JC/SAR-III (16/03/2021) 4P / 6C