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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 23.03.2021

Pronounced on: 01.04.2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2939 of 2021

Kamalesh

... Petitioner/Sole Accused

Vs

The State rep by
The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District,
Cr No. 983/2020.

... Respondent/Complainant

For Petitioner : M/s.Sasi Kumar.V.,
Advocate.

For Intervenor : M/s. Thiruvadikumar
Advocate

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

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

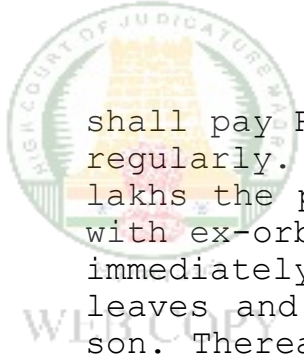
PRAYER :-

For Anticipatory Bail in Crime No.983 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 4 of Tamil Nadu Prohibition of charging Exorbitant Interest Act 2003 and Section 506(i) of IPC seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is running a petrol bunk in the name of Jothi agencies in the Kovilpatti main road. The defacto complainant's son namely Vijaykumar is managing the petrol bunk administration, the accused is also having a petrol bunk in the name of welcome traders. The defacto complainant and the accused got acquaintance. The defacto complainant's son for his business has availed a loan of Rs. 20 lakhs during the year 2016 from the petitioner on condition that he



shall pay Rs.7500/- as interest daily and he was paying the interest regularly. When he wanted to close the loan account by paying Rs.20 lakhs the petitioner informed that he has pay Rs.63 lakhs in total with ex-orbitant interest. Since he could not repay the said amount immediately the defacto complainant handed over four blank cheque leaves and four pronotes signed by the defacto complainant and his son. Thereafter on 25.06.2018 the sale deed was executed in lieu of the principal and interest. Further 36 cents was agreed to be conveyed later and after conveying 36 cents the blank pronotes and the cheque leaves to be returned. In the meanwhile the petitioner started threatening the defacto complainant by sending rowdy elements and muscle men. Further the petitioner wanted to take away the petrol bunk and its operations through third persons lodged complaint against the defacto complianant using the cheques at Rajapalayam Court and against the son of the defacto complainant at Kovilpatti and to file money suit on the pronotes. Further the complainant Karuppasamy and Malanraja are total strangers to the defacto complainant. Hence the complaint.

3. The learned counsel for the petitioner would submit that the defacto complainant's son Vijaykumar is managing the petrol bunk who borrowed money from the petitioner at one point of time and Rs.63 lakhs is due. Hence the defacto complainant had executed a sale agreement dated 14.12.2014 in favour of the petitioner to an extent of 1 acre and 12 cents and another 36 cents. The defacto complainant not chosen to honour the sale agreement, hence again on 28.03.2018 another sale agreement was executed in favour of the petitioner for the property and he would execute the sale deed within 6 months from the date of agreement. The defacto complainant executed registered sale deed in respect of the property to an extent of 112 cents and the same is also registered. The defacto complainant informed that he lost the original sale deed in respect of the 36 cents property and hence he shall execute the sale deed infavour of the petitioner after he got the non traceable certificate from the concerned police. He would also submit that though the happening is in the year 2018, he kept quite, on enquiry for delay in executing sale deed for 36 cents each time was giving one reason or other evading payment. He would further submit that earlier a complaint was lodged before the Kovilpatti East Police Station with the same set of allegation During enquiry both the petitioner and the defacto complainant agreed to appear the court to settle their disputes, the defacto complainant contrary to the agreement now lodged a false complaint against the petitioner.

4. The learned counsel appearing for the petitioner/defacto complainant appeared before this Court and produced documents wherein it is seen that on 14.12.2018 the complaint was lodged against the petitioner, enquiry conducted by the Inspector of Police, Kovilpatti East Police Station . In the enquiry both the petitioner and the defacto complainant appeared, gave undertaking letters that in settling the dues 36 cents of land would be given. Further agreed to hand over blank signed cheque leaves and signed



pronotes. The petitioner on contrary using one Karuppasamy and Malanraja had filed 138 NI Act Cases against the defacto complainant and his son in Rajapalayam and Kovilapatti to be followed with similar cases. The complainant in both the cases are total strangers. The compliant copy produced. In the 138 NI Act complaint the complainant have not stated anything with regard to the liability whether the said persons knew the defacto complainant and what was the transaction they had and whether they have source to extend such huge amount as hand loan. These complaints are filed to exert pressure and harassment, thereby forcing the defacto complainant and his son to yield to the undue demand of the petitioner, who is charging exorbitant interest.

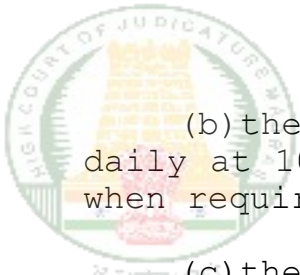
5. The learned Government Advocate(Crl.Side) would submit that the son of the defacto complainant borrowed a sum of Rs.20 lakhs from the petitioner herein and he was paying Rs.7500/- as interest every day and when he attempted to pay the principle amount the petitioner herein demanded a sum of Rs.63 lakhs and also threatened the defacto complainant and his son and obtained a property to an extent of 112 cents in the name of the petitioner and also demanded another property to an extent of 36 cents. Using the cheques of the defacto complainant the petitioner herein had filed two cheques cases in Rajapalayam and Kovilpatti with the help of his associates and others.

6. It is seen that the dispute in this case is that the petitioner is claiming exorbitant interest and also using the blank signed cheques and pronotes through his accomplice had filed 138 cases at Rajapalayam and Kovilpatti and also exerting pressure to settle the undue demand and threatening the defacto complainant and his son.

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

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Kovilpatti on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) 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 petitioner 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 petitioner shall report before the respondent police daily at 10.30 am., for a period of two weeks and thereafter as and when required for interrogation.

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

(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

(h) the petitioner shall not enter the petrol bunk of the defacto complainant either directly or indirectly at any cost and for the 138 NI Act he shall defend before the respective Courts.

sd/-
01.04.2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

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.I, KOVILPATTI.

2.-DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT

3. THE INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
KOVILPATTI EAST POLICE STATION,
THOOTHUKUDI DISTRICT.



4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.V.SASI KUMAR, Advocate (SR-2852[I] dated 01/04/2021)

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ORDER
IN
CRL OP(MD) No.2939 of 2021
Date : 01/04/2021

VB/SMA/SAR-II (16/04/2021) 5P / 6C