



WEB COPY

Crl.O.P.(MD)No.3406 of 2021:

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

Reserved on	Pronounced on
09.07.2021	14.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . Nos.3406 and 3426 of 2021

Crl.O.P. (MD)No.3406 of 2021:

1. K.Jegadeesan
2. Vanaja
3. Hemananthini

... Petitioners/Accused Nos.1 to 3

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Theni, Theni District.
Crime No.6/2021.

... Respondent/Complainant

A.Jeganathan

... Petitioner/proposed Respondent/Defacto
complainant in CRL MP(MD)NO.2298 OF 2021
IN CRL OP.NO.3406 OF 2021

For Petitioner : Mr.R.Suriyanarayanan, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.
For Intervenor : Mr.C.Jeganathan,
Advocate.

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

PRAYER :-For Anticipatory Bail in Crime No.6 of 2021 on the file of
the Respondent police.

Crl.O.P. (MD)No.3426 of 2021:

1. Thomoss Raj
2. Sudhakaran

... Petitioners/Accused No.4 and 5
Vs

The State rep.by,
The Inspector of Police,
District Crime Branch, Theni,
Theni District.

... Respondent/Complainant

<https://hservices.courts.gov.in/hservices>
Crime No.6 of 2021.



A.Jeganathan

... Petitioner/proposed Respondent/Defacto
complainant in CRL MP(MD)NO.2295 OF
2021 IN CRL OP.NO.3426 OF 2021

For Petitioner : Mr.P.Sivachandran,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : Mr.C.Jeganathan,
Advocate.

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

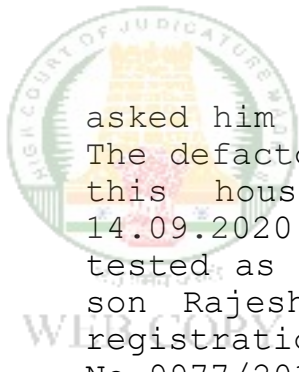
PRAYER :-For Anticipatory Bail in Crime No.6 of 2021 on the file of
the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners in Crl.O.P.(MD)No.3406 of 2021/A.1 to A.3 who
apprehend arrest at the hands of the respondent police for the
offences punishable under Sections 468, 471, 420 and 120(b) I.P.C.,
in Cr.No.6 of 2021, on the file of the respondent police seek
anticipatory bail.

2. The petitioners in Crl.O.P.(MD)No.3426 of 2021/A.4 and A.5
who apprehend arrest at the hands of the respondent police for the
offences punishable under Sections 120(b), 420, 468 and 471 I.P.C.,
in Cr.No.6 of 2021, on the file of the respondent police seek
anticipatory bail.

3. The case of the prosecution is that the defacto
complainant's son and daughter-in-law are working in Canada and they
are earning Rs.10,00,000/-p.m.. The accused Jegadeesan is his
relative. He used to get loan from the defacto complainant. During
October 2017, he offered 90 cents of land in Survey No.47/1B2. The
other accused also told him that the said land is a good land and
induced him to buy the said land. Therefore, he paid Rs.30,00,000/-
for purchasing this land. The sale was executed in document
No.6677/2017. Then the accused offered him to sale 4.94acre in
Survey No.216/1, in Venkatachalapuram Village. Believing their
words, he paid Rs.30,00,000/-. When they went to Sub-Registrar's
office for registering the sale deed on 19.11.2019, the accused
informed him that there is a suit pending and he would execute the
sale deed after resolving that suit. The sale deed was executed and
the accused and other witnesses signed in the document. Again the
accused Jegadeesan told him that there are 4 plots available in
Survey No.730/6 in Aranmanaiputhur and offered him for sale. The
defacto complainant paid Rs.30,00,000/- on 20th November. He was
informed that there was some litigation pending and promised to
execute the sale deed after litigation is over. Then Jegadeesan



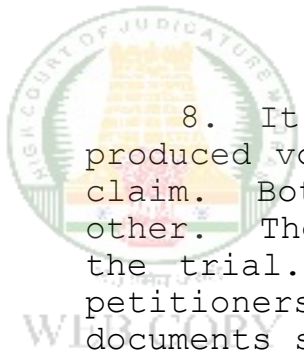
asked him to buy a house in Venkatachalapuram bearing door No.58/5. The defacto complainant paid Rs.30,00,000/- on 11.09.2020 for buying this house. Temporary registration No.TP/94707140/2020 dated 14.09.2020 was given to him. Since the defacto complainant was tested as positive due to COVID-19, he could not go to Theni. His son Rajesh returned from Canada. He asked Jegadeesan about the registration of the documents. When his son verified the document No.9977/2017, it was found to be a xerox document and it was cancelled in 2018. When it was informed to the accused Jegadeesan and asked, he told them that he will not execute any deed, but gave a cheque for Rs.1,20,00,000/- for the amount due and a cheque for Rs.41,00,000/- for interest. When these two cheques have been presented for collection, they were returned as no sufficient funds. Therefore, this case came to be registered.

4. The learned Counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case. He submitted that there is no property transaction, but there was only loan transaction. It is the practice of the defacto complainant to give loan and in consideration there of, wanted execution of sale deeds. Once the loan amount is returned, he used to cancel the deeds executed as a security for loan transaction. This had been happening for several times. Using the said loan transactions, the defacto complainant had given this false complaint. He produced a copy of memorandum of letter dated 03.04.2019 and 05.04.2019, memorandum of calculation dated 01.09.2020, bank transaction statement dated 15.09.2020, summons of the accused dated 31.10.2020, notices under Section 138 of Negotiable Instruments Act, dated 14.12.2020, 19.12.2020, 01.01.2021 and 06.01.2021 and copy of encumbrance certificate dated 11.01.2021, in support of his submissions.

5. The learned Counsel for the defacto complainant opposes this petition on the ground that the petitioners involved in similar offence of cheating. In fact, the accused Jegadeesan projecting himself as an Advocate, has been cheating many persons. He has admitted his liability to pay money to the defacto complainant and issued cheques. If the accused is granted anticipatory bail, he could not recover the amount. Therefore, he seeks dismissal of this petition.

6. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the investigation in this case is not yet completed.

7. Heard the learned Counsel for the petitioners, the learned Counsel for the defacto complainant and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.



8. It is a case of alleged cheating. Both parties have produced voluminous documents in support of their claim and counter claim. Both dispute the genuineness of the documents filed by each other. The issues involved in this case can be considered only in the trial. The fact now to be considered is as to whether the petitioners can be granted anticipatory bail or not. Perusal of the documents show that the main allegation is against the first accused Jegadeesan. The other accused said to have supported his activity. One interesting thing in the F.I.R., is that the defacto complainant said to have repeatedly paid a sum of Rs.30,00,000/-, not one paise more or less, whatever to be the nature of the properties and extent of the properties, as a purchase price. It is surprising to note that every property was sold at the same rate. Even more surprising is that even before registering the sale deed, the defacto complainant paid money for the alleged purchase of property. The defacto complainant's case is not free from doubt. There are two cheques alleged to have been given by the first accused Jegadeesan for discharging payment. One thing is clear from the case of the petitioners that he admitted the loan transaction. Loan transaction or sale transaction, it has to be proved only in trial by production of oral and documentary evidence. Therefore, this Court is of the view that the custodial interrogation of the petitioners 2 and 3 is not necessary. When it comes to the case of the petitioner Jegadeesan, it is specifically alleged that he has produced forged document to register himself as an Advocate. This is a serious offence. Though this case is not registered for impersonation as an Advocate, his conduct shows that he is up to anything. Repeated allegations are made only against the petitioner Jegadeesan. Therefore, this Court is not inclined to grant anticipatory bail to the first accused Jegadeesan. **Accordingly, this Criminal Original Petition in Crl.O.P.(MD)No.3406 of 2021 with regard to the first accused Jegadeesan concerned is dismissed.** This petitioner is allowed in respect of petitioners 2 and 3.

9. Considering the facts and circumstances of the case and the fact that the petitioners 2 and 3 in Crl.O.P.(MD)No.3406 of 2021 are only attesting witnesses, this Court is inclined to grant anticipatory bail to them.

10. Accordingly, the petitioners 2 and 3 in Crl.O.P.(MD)No.3406 of 2021 and the petitioners in Crl.O.P.(MD)No.3426 of 2021 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, Theni 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;

WEB COPY (b) the petitioners in Crl.O.P.(MD)No.3426 of 2021 shall report before the respondent police daily at 10.30 a.m., until further orders and the petitioners 2 and 3 in Crl.O.P.(MD)No.3406 of 2021 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/-

14/07/2021

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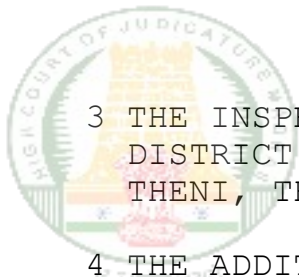
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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,
THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.



3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI, THENI DISTRICT.

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

+1 CC to Mr.R.SURIYANARAYANAN, Advocate(SR-4558[I] dated 14/07/2021)

ORDER
IN
CRL OP (MD) . Nos.3406
and 3426 of 2021
Date :14/07/2021

SSL
MK/MNR/SAR.IV/16.07.2021/6P/6C