



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3424 of 2021

Kausik

... Petitioner/Accused No.3

Vs

State rep.by
The Sub Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District
Crime No. 02/2021.

... Respondent/Complainant

For Petitioner : Mr.M.Jothi Basu,
Advocate.

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

For Intervenor : Mr.Mr.R.Gunasundaram
Intervenor

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

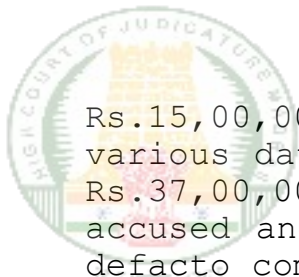
PRAYER :-

For Anticipatory Bail in Crime No.2 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 406,420,506(i) of IPC seeks anticipatory bail.

2. The case of the prosecution is that A1 and A3 helped the defacto complainant to sell his mother's house situated at Tirumangalam for the sum of Rs.70,00,000/- and using the money the defacto complainant had purchased the 1st accused house at Thapal Thanthi Nagar, Madurai to a value of Rs.43,00,000/- in his wife and daughter's name. Further he spent a sum of Rs.2,00,000/- as stamp duty. Further on 04.12.2013 the first accused received a sum of



Rs.15,00,000/- from the defacto complainant for interest and on various dated he also received some money and the same comes around Rs.37,00,000/- Thereafter when the defacto complainant met the accused and demanded to repay the amount, A1 and A2 threatened the defacto complainant with dire consequences. Hence the complaint.

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3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would also submit that the defacto complainant and the petitioner herein are friends and in the month of January 2015 he had received a sum of Rs.15,00,000/- from the defacto complainant as loan and he is paying a sum of Rs.22,500/- as interest per month regularly and during the month of January 2019 he repaid the entire amount to the defacto complainant and there is no due as on date, hence he seeks anticipatory bail

4. The learned counsel for the intervenor submitted that A1 to A3 have committed criminal breach of trust and cheated a sum of Rs.37,00,000/-. He would further submit that A1 and A2 have filed a petition for anticipatory bail before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and the Court vide order dated 24.02.2021 has referred the matter to the mediation for settlement.

5. The learned Government Advocate(Crl.Side) would submit that it is a case of money transaction and the investigation is pending.

6. It is seen that the defacto complainant had sold the property in the year 2013 for a sum of Rs.70,00,000/- and he had purchased a property for a sum of Rs.45,00,000/- from A1 and balance Rs.25,00,000/- was given to A1 and A3 and they were paying interest regularly from the month of January 2019. Thereafter now the defacto complainant wanted money back for the marriage of the daughter hence he approached A1 and A3 seeking return of principle amount and then only he came to understand that A3 had handed over the money to A1 and A1 ought to have pay the entire amount to the defacto complainant. As far as this petitioner is concerned he had been regularly paying the interest. Further learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur vide order dated 24.02.2021 in Cr.M.P. No.441 of 2021 has referred the matter to the mediation for settlement and the case is posted on 15.04.2021.

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



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:

WEB COPY (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 appear before the mediation which is to be conducted before the lower Court.

(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.

sd/-
30/03/2021

/ 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.II,
VIRUDHUNAGAR

2. -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



3.THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-2742[I] dated
31/03/2021)

ORDER

IN

CRL OP(MD) No.3424 of 2021

Date :30/03/2021

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AE/JC/ (07/04/2021) 4P / 6C