



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

Date : 16/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.3810 of 2021

1. Thomasbensam
2. Suresh @ Sureshkumar ...Petitioners/Accused No.1 & 2

Vs

State rep.by
The Inspector of Police,
Kotticode Police Station,
Kanyakumari District.
Crime No.19 of 2021 ... Respondent/Complainant

For Petitioners: Mr.C.Mayilvahana Rajendran,
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.19 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 294 (b), 323, 506(i) of IPC and Section 379(NP) of IPC, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant is the owner of the van bearing Registration No.TN-75-F-7716 and the same was being used for hire. The first petitioner and the de-facto complainant are friends. Due to previous enmity with regard to money dispute between the parties, the second petitioner informed the de-facto complainant through cell phone that he hired the van and asked him to pickup at Verkilambi. Further, the de-facto complainant picked up the second petitioner and he asked him to go hotel at Mundavilai, at that time, there was a wordy quarrel, in which, the petitioners said to have attacked the de-facto complainant and taken the van and also taken the cell phone and cash of Rs.50,000/-. Hence, the complaint.



3.The learned counsel appearing for the petitioners would submit that the first petitioner and the de-facto complainant are friends. Due to money dispute between the parties, a false case has been foisted against the present petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the State would submit that the first petitioner and the de-facto complainant are friends. The first petitioner had stood as a guarantor to the de-facto complainant in getting a car finance of the de-facto complainant from Sri Ram Transport Finance Company. The de-facto complainant had failed to pay the installment, notice was issued to the first petitioner as well as the de-facto complainant on 12.02.2021. The first petitioner had asked the de-facto complainant to repay the loan amount, for which, the de-facto complainant refused to do so. In the Sri Ram Transport Finance Company Limited listed the first petitioner as a defaulter, which was reflected in a cibil rating. Further, the petitioner on 03.03.2021 had assisted the finance company employee to take possession of the van. Hence, a case was registered against the petitioners based on the complaint given by the de-facto complainant.

5.Considering the facts and circumstances of the case and also considering the fact that due to money dispute between the parties, a false case was registered against them and the second petitioner with the help of first petitioner seized the de-facto complainant's van and handed over the Sri Ram Transport Finance Company Limited, except this allegation, no overt act is attributed against these petitioners, 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, Padmanabhapuram, 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
<https://www.hccourtsonline.org.in/> 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/-

16/03/2021

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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, PADMANABHAPURAM.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3. THE INSPECTOR OF POLICE,
KOTTICODE POLICE STATION, KANYAKUMARI DISTRICT.

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

+1 CC to M/s.C.MAYILVAHANA RAJENDRAN, Advocate (SR-2167[I] dated 16/03/2021)

ORDER IN

CRL OP(MD) No.3810 of 2021

Date :16/03/2021

MS/PN/SAR-4/23.03.2021/2P.6C