



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/04/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.5199 of 2021

1. M.Srinivasan
2. Nirmala @ Nirmala Srinivasan
3. S.Grish @ Grishwar
4. M.R.Kani @ Sermakani ... Petitioners/Accused No.1,2,3 & 5

Vs

State through
The Sub Inspector of Police,
Koodal Pudur Police Station,
in Crime No.173 of 2021. ... Respondent/Complainant

For Petitioners : M/s.Sukumar.B.,
Advocate.

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

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

PRAYER :-

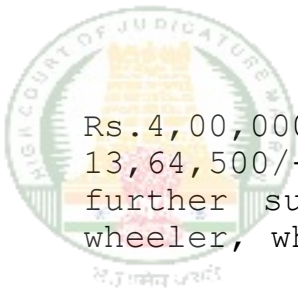
For Anticipatory Bail in Crime No.173 of 2021 on the file of
the Respondent Police

ORDER : The Court made the following order :-

The petitioners/A.2 and A.3 who apprehend arrest at the hands
of the respondent police for the offences punishable under Sections
379NP, 506(i) I.P.C., and Section 4 of TNPHW Act 2002 and Section 5
of Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003,
in Cr.No.173 of 2021, on the file of the respondent police seek
anticipatory bail.

2.Heard the learned Counsel appearing for the petitioners and
the learned Government Advocate(Crl.Side) appearing for the State.

3. It is seen from the submissions that the allegations against
the petitioners is that on the promise for giving loan of
Rs.8,00,000/-, the defacto complainant was given only a sum of



Rs.4,00,000/- and though the defacto complainant paid a sum of 13,64,500/-towards repayment of loan, the petitioners demanded further sum of Rs.9,00,000/- and they have also seized the two wheeler, which was kept in the house, worth about Rs.95,000/-.

4. The learned Counsel for the petitioners submitted that though the alleged incident said to have been happened on 25.12.2020, the complaint was given only on 21.03.2021. In fact, the first petitioner has filed a case under Section 138 of the Negotiable Instruments Act against the husband of the defacto complainant and there are also two suits in O.S.No.337 of 2021, on the file of the Principal Subordinate Court, Madurai, which was filed by the first petitioner against the defacto complainant and her husband for recovery of money and another suit in O.S.No.35 of 2021, on the file of the District Munsif Court, Madurai, filed by the first petitioner against the defacto complainant and two others for injunction and to avoid the payment of loan, the defacto complainant has given this false complaint.

5. The learned Government Advocate(Crl.Side) appearing for the State submitted that the allegation against the petitioners are serious in nature and therefore, he opposes for granting anticipatory bail to the petitioners.

6. The perusal of the records shows that as rightly pointed out by the learned Counsel for the petitioners, there is a delay of nearly three months in giving the complaint. Not only that, this complaint was given only after filing of a complaint under Section 138 of the Negotiable Instruments Act, which was filed against the defacto complainant and her husband. Apparently, it appears that it was a loan transaction between the defacto complainant and the petitioners. The learned Counsel for the petitioners filed a bank statement by showing that the amount of Rs.8,00,000/- was paid to the defacto complainant through a cheque. This matter involves primarily a civil money dispute, which is now being converted into criminal dispute.

7. Considering the facts and circumstances of the case and also the civil and criminal litigations instituted by the first petitioner against the defacto complainant and her husband in connection with money transaction, 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 Additional Mahila Judge (Judicial Magistrate Level), 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 daily at 10.00 a.m., until further orders;

(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/-

09.04.2021

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

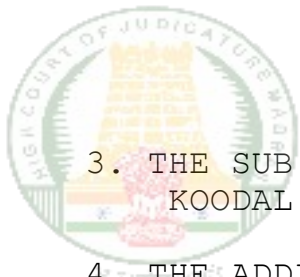
Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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TO

1. THE ADDITIONAL MAHILA JUDGE (JUDICIAL MAGISTRATE LEVEL),
MADURAI.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.



3. THE SUB INSPECTOR OF POLICE,
KODAL PUDUR POLICE STATION.

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

+1 CC to M/s.B.SUKUMAR, Advocate (SR-3125[I] dated 16/04/2021)

ORDER
IN
CRL OP(MD) No.5199 of 2021
Date : 09/04/2021

VB/PN/SAR-III (21/04/2021) 4P / 6c