



WEB COPY

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

Reserved on	Pronounced on
08.07.2021	12.07.2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) . No.7735 of 2021

A. Singaravelan ... 1st Respondent/Accused

Vs

1. The State Rep. by
The Inspector of Police,
Fort Police Station,
Trichy City.
Crime No. 530/2021. ... 2nd Respondent/Complainant
2. S.Pratap ... Intervening Petitioner /
Defacto Complainant

For Petitioner : Mr.Chandrakumar,
Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor
For Intervenor : Mr.B.Jameel Arasu
Advocate

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

PRAYER :-

For Anticipatory bail in Crime No.530/2020 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioner/Sole accused, apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 406, 420 and 506(i) I.P.C., in Crime No.530 of 2021 on the file of the respondent police, seeks anticipatory bail.



2. The case of the prosecution is that the defacto complainant is doing textiles and buying and selling of old car business. The accused/petitioner A.Singaravelan is known to the defacto complainant for several years. The petitioner is the owner of JJ cars. JJ cars are involved in buying and selling of old cars. In January 2018, the petitioner approached the defacto complainant and asked him to invest Rs.35,00,000/- in his business. In consideration there of, he promised to pay Rs.50,00,000/- at the end of one year. Believing the words of the petitioner, the defacto complainant had invested Rs.30,90,000/- on various dates. As a security for this investment, the petitioner had given a settlement deed executed by his father in favour of his mother to the defacto complainant. As promised, the petitioner had not given any money including the principal amount. On 17.10.2020, the defacto complainant demanded the petitioner to pay his money. The petitioner scolded him in filthy language and made criminal intimidation alleging that if he comes again seeking money, he would be eliminated. Therefore, this case came to be registered on the basis of the complaint given by the defacto complainant.

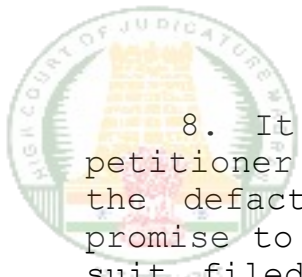
3. The learned Counsel for the petitioner submitted that the allegation against the petitioner is not true. There was only a monetary transaction. It is purely a civil dispute. Instead of filing civil case, the defacto complainant has filed a criminal case. Therefore, he seeks anticipatory bail to the petitioner.

4. The learned Counsel for the defacto complainant opposes this petition on the ground that right from the beginning, the petitioner's intention is to cheat the defacto complainant and that is the reason for the petitioner not to pay any amount to the defacto complainant. If the petitioner is granted anticipatory bail, there is no possibility of recovering the money from the petitioner. Therefore, he seeks dismissal of this petition.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the investigation in this case is pending.

6. The learned Counsel for the defacto complainant filed certain documents like copy of agreement deed dated 11.03.2018 alleged to have been entered into between the petitioner and the defacto complainant, copy of bank statement, copy of plaint in O.S.No.63 of 2019 and copies of complaints given by the defacto complainant to the Commissioner of Police, Trichy.

7. Heard the learned Counsel for the petitioner, 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 seen from the agreement dated 11.03.2018 that the petitioner clearly admitted receiving a sum of Rs.30,90,000/- from the defacto complainant, as investment in his business, with a promise to return Rs.50,00,000/- in March 2019. Not only that, in a suit filed by the petitioner in O.S.No.63 of 2019 also, he had admitted in paragraph No.10 of the plaint that he borrowed a sum of Rs.30,50,000/- from the defacto complainant. Thus there is a *prima facie* evidence to conclude that the petitioner had received Rs.30,90,000/- from the defacto complainant. It is the claim of the defacto complainant that the petitioner had not returned even a single paise till now. He had also sent complaints in this regard to the Commissioner of Police on 21.10.2020 and 02.12.2010. The petitioner had also not produced any materials to show that he paid either the principal or interest to the defacto complainant. Of course, on the face it looks like a money transaction, but it is alleged by the defacto complainant that the fact that the petitioner has not paid a single paise shows that the main aim of the petitioner is to cheat the defacto complainant. We cannot say that there is no force in this submission.

9. Considering all these facts and circumstances of the case, this Court is of the considered view that the parties have to seek their relief before the competent Court / Civil court. The disputed issues in this case have to be tied and decided in the trial. In the meanwhile, with a view to safeguard the interest of both parties, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.I, Trichy within a period of fifteen days from the date of receipt of a copy of this order, on his executing 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 said Magistrate and on further condition that:

[a] the petitioner shall deposit a sum of Rs.30,90,000/- (Rupees Thirty Lakhs and Ninety thousand only) towards Court deposit to the credit of Cr.No.530 of 2021 without prejudice to his defence and only on such deposit the learned Magistrate shall accept the sureties. On such deposit being made, the learned Magistrate is directed to deposit the same in any one of the Nationalized Banks within his jurisdiction, in an interest bearing fixed deposit scheme. The learned Judge, at the conclusion of the trial, is directed to pass appropriate orders with regard to the disbursement of this amount either directing payment to the defacto complainant or to the accused on the basis of merits of the case;

[b] 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.



[c] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
12/07/2021

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/ /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.I,
TRICHY.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
FORT POLICE STATION, TRICHY CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.7735 of 2021
Date :12/07/2021