



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17.08.2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.8693 of 2021

V.Radhakrishnan

... Petitioner/1st Accused

Vs

State rep by
The Inspector of Police,
Thiruthangal Police Station,
Thiruthangal,
Virudhunagar District.
Crime No.149 of 2021.

... Respondent/Complainant

For Petitioner : Mr.A.Sivaji, Advocate

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

For Intervener : Mr.M.Jegadeesh Pandian, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.149 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 IPC in Crime No.149 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner obtained loan for a sum of Rs.44 Lakhs from the defacto complainant and failed to repay the same. Hence, the present case has been registered.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case.

4.Heard the learned counsel for the petitioner and the learned Government Advocate(Crl.side) appearing for the respondent police.

5.It appears that the defacto complainant has preferred a complaint before the learned Judicial Magistrate No.II, Sivakasi under Section 156(3) Cr.P.C., and the learned Judicial Magistrate directed the respondent police to investigate the complaint and to register the case, if any prima facie case is made out. Based on the same, the First Information Report was registered. But, a reading of the First Information Report discloses that it is purely a money transaction, for which, the remedy is elsewhere. The learned Judicial Magistrate under Section 156 (3) Cr.P.C., has directed the respondent police to enquire into the complaint and register the case, only if a prima facie case is made out. Therefore, the respondent police is expected to independently apply their mind and by referring the relevant Police Standing Order, they ought to have advised the parties to approach the jurisdictional civil Court for appropriate relief.

6.In view of the above said directions, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, this criminal original petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.2, Srivilliputur at Virudhunagar District, on condition that 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 learned Magistrate concerned and on further conditions that:

[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 Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police as and when required.

[c]the petitioner shall not tamper with the 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]**.

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

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/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

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.2,
Srivilliputtur, Virudhunagar District.
- 2.Do Through
The Chief Judicial Magistrate,
Virudhunagar District at Srivilliputtur.
- 3.The Inspector of Police,
Thiruthangal Police Station,
Thiruthangal,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.A.Sivaji, Advocate SR.No. 26698

ORDER IN
CRL OP(MD)No.8693 of 2021
Date : 17.08.2021

TR/JC/SAR-III(08.09.2021) 3P 6C