



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

Date : 28/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.9634 of 2021

A.Mohamed Idiris ... Petitioner/Accused(A1)

Vs

State Rep.by
The Inspector of Police,
District Crime Branch,
Pudukottai.
(Crime No.22 of 2020)

... Respondent/Complainant

M.Shiek Dawood

... Petitioner/ Intervener/
Defacto-Complainant
IN CRL MP(MD)No.5218 of 2021
IN CRL OP(MD). No.9634 of 2021

For Petitioner : Mr.D.Shanmugaraja Sethupathi, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : Mr.Sivakumar, Advocate

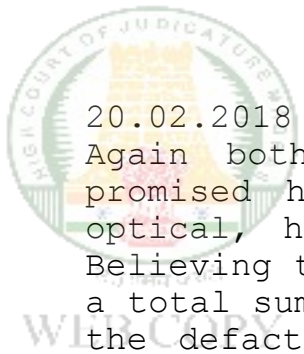
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.22 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 29.06.2021 for the offences punishable under Sections 406, 420 and 506(i) IPC., in Crime No.22 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the first petitioner is running an 'Optical Shop' in Erode and the second petitioner is the wife of the first petitioner. The petitioners and the defacto complainant are close relatives. The first petitioner informed the defacto complainant that if he invested the money in the optical business, he will get good profit. Believing the words of the first petitioner, the defacto complainant invested Rs.10 lakh on



20.02.2018 and executed a document in support of that investment. Again both the petitioners invited the defacto complainant and promised him that if he invested another Rs.30 lakhs in a new optical, he would get a sum of Rs.2 Lakhs per month as profit. Believing the words of the petitioners, the defacto complainant paid a total sum of Rs.43 lakhs to the petitioners on various dates. When the defacto complainant was waiting for receiving Rs.2 lakhs per month for investing the amount, the petitioners did not repay any amount to him for several months. When he demanded the payment, the petitioners told some flimsy reasons. When pressurized with demand, the petitioners said to have criminally intimidated him. Hence the complaint.

3.The learned counsel for the petitioner would submit that of course there was some money transaction between the parties to an extent of Rs.4 lakhs and he had already paid Rs. 2 lakhs. He was forced to enter into compromise on 09.10.2020. Challenging the said compromise he filed a suit in O.S.No.3163 of 2020 on the file of the XIII City Civil Court, Chennai seeking declaration that compromise agreement dated 09.10.2020 entered between him and the defacto complainant is null and void and not binding on him. He further draw the attention of this Court to the copy of the agreement dated 20.02.2018, the partnership deeds dated 24.12.2018 and submitted that in none of the documents, the defacto complainant was made signatory. In the complaint to the Deputy Superintendent of Police, Pudukottai dated 08.10.2020, it was alleged that the petitioner received a sum of Rs.43 lakhs on various dates. However in the compromise agreement the amount said to have received was mentioned as Rs.30 lakhs. It *Prima facie* shows that the defacto complainant's case is false. The petitioner is in judicial custody from 29.06.2021, therefore further custodial interrogation of the petitioner is not required, hence he seeks bail.

4. The learned counsel for the defacto complainant would submit that Rs.30 lakhs was invested by the defacto complainant and Rs.15 lakhs was invested by one Naina Mohamed. That was the reason that a sum of Rs. 30 lakhs was shown in the compromise agreement dated 09.12.2020. He is not able to give any satisfactory explanation as to why the defacto complainant has not signed in the agreement dated 20.12.2018.

5. There are other materials such as representation to the Superintendent of Police dated 17.10.2020 account details given by the accused, order passed by the Honourable Supreme Court in SLP (Crl.) No.4362 of 2021 has also been filed. This orders shows that the interim protection was granted in favour of the petitioner, restraining the respondent from arresting him. When this Court enquired the learned counsel for the petitioner as to how this Court can entertain this petition when the matter is pending before the Honourable Supreme Court, the learned counsel for the petitioner submitted that SLP(Crl.) No.4362 of 2021 pending before



the Honourable Supreme Court was withdrawn and letter has been given in this regard.

6. The learned Additional Public Prosecutor appearing for the respondent opposed the bail petition on the ground that the investigation is not yet completed.

7. From the narration of the facts and the submission of the case shows that there is some monetary transactions between the accused and the defacto complainant in this case. There are claims and counter claims with regard to the quantum of money paid and owned. Both sides have produced documents. The reliability, admissibility and relevancy of these documents cannot be looked into at the time of considering bail petition. These documents are to be produced and proved before the trial Court.

8. The question is whether further incarceration of the petitioner is necessary or not. As narrated above, the case of the parties depend upon submission of oral and documentary evidence in support of their case. Further the petitioner is in judicial custody from 29.06.2021. In the said circumstances this Court is the considered view further incarceration of the petitioner is not necessary, hence this Court is inclined to grant bail to the petitioner.

9. Accordingly, the petitioner is ordered to be released on bail 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 learned Judicial Magistrate No.II, Pudukottai and on further condition that:

[a] 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 report before the respondent police daily at 10.30 am., until further orders.

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

[d] the petitioner shall not tamper with evidence or witness 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 229A IPC.

sd/-
28/07/2021

/ TRUE COPY /

WEB 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, PUDUKOTTAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
3. THE OFFICER INCHARGE, DISTRICT PRISON,
PUDUKOTTAI.
4. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
PUDUKOTTAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/S.D.SHANMUGARAJA SETHUPATHI, Advocate SR NO.4900

+1CC TO S.SIVAKUMAR, ADVOCATE, SR NO.4911

ORDER
IN
CRL OP(MD) No.9634 of 2021
Date :28/07/2021

AAV
MS/JC/SAR-3/28.07.2021/4P.8C