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.10050 of 2021

Veeramani ... Petitioner/Accused

Vs

The State rep.by,
The Sub Inspector of Police,
Usilampatty Town Police Station,
Usilampatty, Madurai District.
(Crime No.337/2021) ... Respondent/Complainant

For Petitioner : Mr.R.Sundar Srinivasan, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor.

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

PRAYER :-For Anticipatory Bail in Crime No.337 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 422, 294(b) and 506(i) of IPC, in Crime No.337 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the accused requested the de-facto complainant to pay a sum of Rs.9,50,000/- as loan for meeting his urgent family necessities and promised to return the amount within three months. Believing his words, the de-facto complainant had lent him Rs.9,50,000/- on 10.10.2018. The petitioner did not return the money as promised by him within three months from the date of receipt of the money. When the de-facto complainant asked the petitioner to return the money on 30.03.2021, the petitioner gave him two post-dated cheques, dated 10.09.2023 and 20.10.2023. When the de-facto complainant demanded and asked him as to why he did not return the money within three months as promised, but now giving post-dated cheques after three years, the petitioner said to have scolded him in filthy language and made criminal intimidation. Therefore, this case came to be registered.

3.The learned counsel for the petitioner submitted that the allegation made in the complaint is not true. The de-facto complainant approached the petitioner in the year September 2018 for investing in share markets and mutual funds. The petitioner is working in life insurance company and he is also an Advisor for investing in a stock market. Initial idea of the petitioner was to help the de-facto complainant to invest his amount in stock market. Due to the fact that there was mismatch in the particulars of the de-facto complainant, he could not satisfy the KYC particulars and investments could not be made in his name. The de-facto complainant suggested the petitioner that the petitioner could invest the amounts to the tune of Rs.9,50,000/- in his name in the stock market. As a security, the petitioner had issued three cheques, dated 15.11.2018, 20.11.2018 and 05.12.2018 for a sum of Rs.3,00,000, Rs.4,50,000/- and 2,00,000/- respectively. Later, during February 2019, the said two cheques were substituted by new cheques, dated 10.09.2019 and 20.10.2019 for a sum of Rs.5,00,000/- and Rs.4,50,000/- respectively. During February-March 2019, there were severe market fluctuations because of demonetization and other factors and the financial market suffered a set back. The de-facto complainant demanded the petitioner to return the money that was given for investment. The petitioner explained to him that any investment in the share market or mutual funds subject to market fluctuations. The de-facto complainant was very adamant. In order to purchase peace and to avoid any strain in relationship, the earlier cheques were substituted and the petitioner issued two post-dated cheques, dated 10.09.2023 and 20.10.2023 for a sum of Rs.5,00,000/- and Rs.4,50,000/- respectively. There is no question of cheating the de-facto complainant by the petitioner. If the market situation improves, the de-facto complainant shall get back his amount, otherwise, the de-facto complainant can initiate action on the basis of the two cheques issued by the petitioner.

4.The learned Additional Public Prosecutor for the respondent police opposed this petition on the ground that the investigation is in preliminary stage.

5.The narration of the facts shows that though the de-facto complainant claims the money transaction as a loan transaction, the petitioner claims otherwise. It is the case of the petitioner that the de-facto complainant had invested in share marketing and mutual funds. Due to the demonetization and other factors, the market situation is not so good. To give confidence to the de-facto complainant, petitioner had given two post-dated cheques. The case of the de-facto complainant and the petitioner shows that it is a case of pure money transaction and the dispute is civil in nature. There is no ingredients to prosecute, as of now, for the alleged offence of cheating. Moreover, the case of the de-facto complainant and the petitioner have to be produced by production of documentary evidence, supported by oral evidence.

6.In the facts and circumstances of the case, the custodial interrogation of the petitioner is not necessary, therefore, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, 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, Usilampatty, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition 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 Aadhar card or Bank pass Book to ensure their identity;

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

[c]the petitioner shall not tamper with 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
28/07/2021

/ TRUE 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
USILAMPATTY.

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

3 THE SUB INSPECTOR OF POLICE,
USILAMPATTY TOWN POLICE STATION,
USILAMPATTY, MADURAI DISTRICT.

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

+1 CC to MR.R.SUNDAR SRINIVASAN, Advocate(SR-4925[I] dated 29/07/2021)

ORDER
IN
CRL OP(MD) No.10050 of 2021
Date :28/07/2021

SJI
MK/JM/SAR.III/02.08.2021/4P/6C