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

Dated: 21/12/2021

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP (MD)No.18693 of 2021

1.Jeyachandran

2.Gayathiri

... Petitioners/Accused No.1 & 2

Vs.

State rep.by
The Inspector of Police,
District Crime Branch
Police Station,
Theni District.
(Crime No.15 of 2021)

... Respondent/Complainant

K.Bose

...Intervening Petitioner/
De facto Complainant
(in Crl.M.P. (MD)No.11088/2021)

For Petitioners : M/s.M.S.Jeyakarthik, Advocate

For Respondent : M/s.S.Manikandan,
Government Advocate Criminal side)

For Intervener : Mr.A.R.Kannappan, Advocate

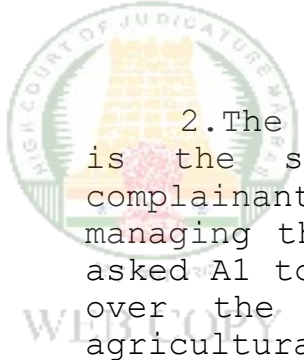
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.15 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 468, 471 and 294(b) IPC in Crime No.15 of 2021 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that the de-facto complainant is the sister of the A1 namely Jeyachandran. The de-facto complainant owned property in the village and for the purpose of managing the same, since because of the education of his child, he asked A1 to manage the property and for that purpose, he also handed over the possession of the house for the purpose of doing agricultural activities and they also handed over the cheque bearing Nos.114303 and 11405 belonging to his wife in unfilled form. The key of the house was also handed over to A1. When they returned to the village on September 2020 and when they opened the house, they found that the original document in document NO.248 of 1989 and the cheque was one Indian Bank were found missing. When it was enquired, they claimed ignorance. They further enquired in receiving the unfilled cheque, he promised to return the same. Later there was an attempt and he was also criminally intimidated to grab the properties. So on the basis of the above said stolen cheque, a case has also been registered. On 01/09/2021 at about 8.30 am, when the de-facto complainant was returning from thope, the accused persons criminally intimidated and abused him in filthy language. So on the basis of the complaint, a case has been registered under sections 120-B, 406, 420 and 234(b) IPC in Crime No.15 of 2021.

3.When the complaint was in the initial stage, the anticipatory bail came to be filed by the petitioner and later, after registration of the FIR, the petition has been amended to include the above said crime number.

4.The intervener also filed a petition to intervene this petition, who is de-facto complainant and would submit that the petitioners have defrauded the de-facto complainant and on the basis of the stolen cheques, they also filed a criminal case in STC No.48 of 2021 before the Judicial Magistrate, Theni, wherein the 2nd petitioner is the complainant and the wife of the de-facto complainant has shown as accused.

5.Heard both sides.

6.Whether the above said criminal case has been registered based on the stolen cheques or not is a matter for consideration by the concerned court. No opinion can be expressed by this court in this matter. If any opinion is expressed, it may affect the trial process.

7.Now the case of the petitioners is that the tittle of the de-facto complainant in respect of the property is under dispute. But however, as security Rs.6,00,000/- was obtained and the possession was handed over to the petitioners. Apart from this, it is also claimed that the legal heirs of one Velammal, who is the mother of A1 is also claiming share in the above said properties. So the 1st petitioner is having share in the property or not is a matter of consideration by the civil court. This court cannot entertain such a sort of dispute as of now.



8. According to the petitioner, since the property was handed over to him as security, he put a bore well and obtained electricity service connection etc. So, apart from that, the wife of the de-facto complainant has also approached A2 and obtained a loan of Rs.31,00,000/-. Towards the above loan only, the above cheque has been handed over and in respect of which, the above said STC No.46 of 2021 has been registered on the file of the Judicial Magistrate, FTC, Theni. Without repaying the loan amount, the de-facto complainant demanded the petitioners to vacate the premises. So he filed the suit in O.S No.31 of 2021 before the District Munsif, Theni for permanent injunction. It is also pending.

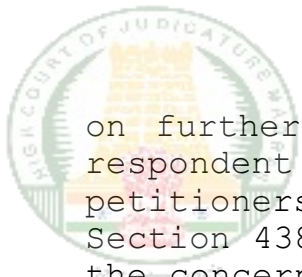
9. The further contention is that on previous two occasions, the complaint was given by the de-facto complainant to Kandamanur Police Station and P.C.Patti police station and the Deputy Superintendent of Police were closed and thereafter, only this complaint came to be filed. So according to him, before several police stations, complainants have been given. Out of which, several complaints have been closed. So on this ground, they seek anticipatory bail.

10. The intervener also filed the typed set of papers wherein, he produced the copy of the sale agreement in favour of the intervener and the copy of the patta, rental agreement etc along with blank cheque. The first petitioner leased out a chicken farm in favour of one Paramasivan. Since the title over the property is in dispute, this document cannot be taken into account. The 1st petitioner has also produced an agreement dated 21/12/2003, wherein we find that the property belongs to the de-facto complainant has been mortgaged to A1 for Rs.6,00,000/-. The mortgage time was mentioned as 15 years.

11. It is also seen that the properties in Survey No.41/4 measuring 1276 acres and in Survey No.41/1 measuring 1.57 acres and in Survey No.41/3 measuring 3 acres, totally 6 acres and 34 cents were also mortgaged with UBI, Veerapandi. So this document shows that there were continuous money transaction between the de-facto complainant and the petitioners herein and some way or other, trouble arose between them, who are close relatives. Based upon which, the present complaint has been registered.

12. Considering the fact that there was a long standing money transaction between the petitioners and the de-facto complainant, and his wife, I am of the considered view that the petitioners are entitled for anticipatory bail and accordingly, I am inclined to **grant anticipatory bail** to the petitioners with certain conditions.

13. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their before the learned Judicial Magistrate, Theni and on each of them 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 Magistrate concerned and



on further condition that the petitioners shall appear before the respondent police daily at 10.00 am until further orders. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

Sd/-
21/12/2021

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

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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,
THENI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
THENI DISTRICT, THENI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.JEYAKARTHIK M.S. Advocate SR.No.9586

ORDER
IN
CRL OP(MD) No.18693 of 2021
Date :21/12/2021