



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Seventh day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.2586 of 2022

R.PUGAZHENDHI

[PETITIONER / ACCUSED]

Vs

THE STATE OF TAMILNADU REP BY
THE INSPECTOR OF POLICE,
DCB, THIRUVALLUR DISTRICT
CRIME NO.5/2022

[RESPONDENT]

For Petitioner : M/S.S.ANIL SANDEEP Advocate

For Respondent : M/S.S.SANTHOSH, Govt. Advocate (Crl. Side)

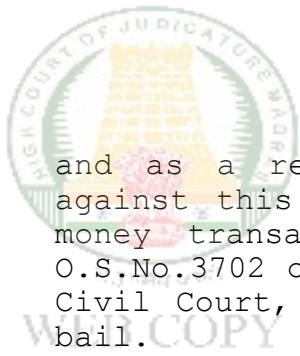
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under 406 & 420 of IPC in Crime No.5 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had obtained a sum of Rs.18 lakhs from the defacto complainant namely Mr.Karthikeyan in July, 2020 and towards the repayment of that amount, the petitioner had promised to sell his property at Sholavaram, Thiruvallur District to the defacto complainant and thereafter refused to do so. Thereby, he cheated the defacto complainant. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the averments shown in the FIR is the evident to show that there was a money transaction between the petitioner and the defacto complainant



and as a result of which, the present case has been registered against this petitioner. He further submits that in respect to the money transaction both of them are having the Civil Suit in O.S.No.3702 of 2020 on the file of the learned XXIII Assistant City Civil Court, Chennai. Hence, he prayed to enlarge the petitioner on bail.

4. The learned Government Advocate (Crl. Side) appeared for the respondent police fairly conceded that the nature of the transaction between the petitioner and the defacto complainant is civil in nature and also he admits the pendency of the civil suit before the appropriate forum.

5. The submission made by the learned counsel on either side is considered.

6. In view of the above, the averments found in the FIR disclosed the fact that during the relevant point of time, the petitioner herein having loan transaction with the defacto complainant, since the amount advanced by the defacto complainant is not repaid and the same developed the enmity between the petitioner and the defacto complainant. As a result of which, the petitioner intimidated the defacto complainant that the documents signed by the defacto complainant becomes valuable security. On the other hand, the other averments shown in the FIR does not shows the direct involvement of the petitioner. Hence, in view of the same whether the petitioner is having intention to cheat the defacto complainant is true or not the same can be verified only during the time of trial. Otherwise, the question of custodial interrogation in this case may not be necessary to complete the investigation.

7. Considering the above facts and circumstances of the case and also the fact that the case is of civil in nature, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days before the learned Judicial Magistrate No.II, Ponneri, Thiruvallur, 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 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 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/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-

07/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, PONNERI, THIRUVALLUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
DCB, THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.S.ANIL SANDEEP Advocate on payment of necessary charges SR.NO.2065

CRL OP.2586/2022

Date :07/02/2022

RW 14/02/2022