



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eleventh day of April Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.7469 of 2022

AND CRL.M.P.NO.4713 of 2022

1 AYALRAJ
2 VARNIKA
3 MADHANKUMAR
4 KARTHIKEYAN

[PETITIONERS / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
K8-ARUMBAKKAM POLICE STATION,
MMDA COLONY, WATER TANK RD,
MMDA COLONY, BALAVINAYAGAR NAGAR,
CHENNAI 600 106.
CRIME NO.1297 OF 2017

[RESPONDENT]

SENDILKKUMAR

[PETITIONER / INTERVENER
/ DEFACTO COMPLAINANT]

[ORDERED AS PER ORDER OF THIS COURT DATED 11/04/2022 IN
CRL.MP.4713/2022 IN CRL.O.P.NO.7469/2022]

For Petitioner : MR.M.RAMAMOORTHY, Advocate for
M/S.S.MANIKANDAN Advocate

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

For Intervenor : M/S.S.BHARATHI, Advocate



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

ORDER : The Court Made the following order :-

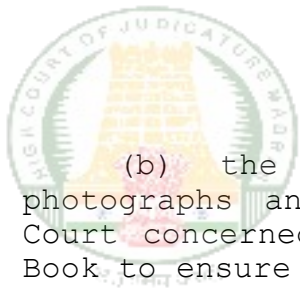
The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 323, 448, 506(i) of IPC later altered into Sections 406 and 420 of IPC in Crime No.1297 of 2017, on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsel for the petitioners, the learned counsel for the Intervenor and the learned Government Advocate (Crl.Side).

3. The learned counsel for the defacto complainant has intervened by objecting the petition for anticipatory bail. The sum and substance of the complaint dated 09.11.2017 is that the petitioners herein borrowed a sum of Rs.40,00,000/- from the defacto complainant for their business purpose and not repaid money in full and around Rs.19,00,000/- is still due and payable. Initially, the complaint was registered for the offence under Sections 294(b), 323, 448, 506 (i) of IPC and after five years of investigation, the respondent police has altered the sections into 406 and 420 of IPC. However, material so far collected indicates that there was money transaction between the petitioners and the defacto complainant, wherein, substantial amount has already been paid to the defacto complainant and infact for short period of six months in the month of October, the defacto complainant himself was given authorization to handle the bank account of the petitioners' company by name "Akshaya Constructions". While so, the complaint now altered into Section 406 of IPC alleging breach of trust and 420 of IPC alleging cheating appears to be very weak and lack ingredients. Hence, anticipatory bail may be granted to the petitioners.

5. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned V Metropolitan Magistrate, Egmore, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakhs Only), with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) if the petitioners failed to surrender before the concerned Magistrate within a period of 7 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;



(b) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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(c) the petitioners shall report before the respondent police as and when required for interrogation;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]; and

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

11/04/2022

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 METROPOLITAN MAGISTRATE,
NO.V, EGMORE.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
K8-ARUMBAKKAM POLICE STATION,
MMDA COLONY, WATER TANK RD,
MMDA COLONY, BALAVINAYAGAR NAGAR,
CHENNAI 600106.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.S.MANIKANDAN
charges SR.NO.5544

Advocate on payment of necessary

CRL OP.7469/2022
AND CRL.M.P.No.4713/2022

Date :11/04/2022

JPA 19/04/2022