IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G. CHANDRASEKHARAN

CRIMINAL ORIGINAL PETITION No.10484 of 2022

ANAND BABU [PETITIONER / ACCUSED]

Vs

THE STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE
G-7, CHETPET POLICE STATION,
CHENNAI.
CRIME NO.49 OF 2022.

For Petitioner : MR.D.SELVAM, Advocate for
M/S.M.BASKAR-/1674/2001 Advocate

For Respondent : MR.N.S.SUGANTHAN, 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 for the alleged offences under Sections **406, 420 & 506 (Part-1) of IPC** in Crime No.49 of 2022, on the file of the respondent/police, seeks anticipatory bail.

2. It is seen from the allegations made in the complaint that the de-facto complainant alleged that he paid a sum of Rs.14,00,000/- to the accused through his Indian Overseas Bank, a sum of Rs.9,00,000/- through bank and a sum of Rs.5,00,000/- through cash payment. When he wanted the money to be returned after some time, the accused said to have made a threat to his life. Then, he gave three Axis Bank cheques for a sum of Rs.4,00,000/-.

3. However, it is the submission of the learned counsel for the petitioner that the allegations made in the F.I.R. are totally false. In fact, there were monetary transactions between the petitioner and de-facto complainant and the petitioner borrowed a sum of Rs.25,00,000/- from the de-facto complainant on 25.08.2018 at 6%

interest. Calculating interest from 25.09.2018 to 29.01.2019, he re-paid a sum of Rs.31,00,000/-, which included the principal and interest. Despite the payment, the de-facto complainant started to give threat to the petitioner and therefore, he gave a complaint to the Sub-Inspector of Police, JJ Nagar Police Station, Anna Nagar, Chennai alleging the threat made by the de-facto complainant and theft of Samsung Laptop, cheques and other office articles and a cash of Rs.4,50,000/-. This complaint was given on 27.02.2020. The copy of the receipt issued by the JJ Nagar Police Station, Anna Nagar, Chennai is also produced. Further, it is the submission of the learned counsel for the petitioner that he issued three cheques for a sum of Rs.14,00,000/-. The break-up figures are as follows :

S.No.	Cheque No.	Date	Amount (in Rs.)
1	377373	10.07.2020	5,00,000/-
2	377374	10.08.2020	5,00,000/-
3	377375	10.09.2020	4,00,000/-

4. Suppressing the origin of the loan transactions, the de-facto complainant had given a complaint against the petitioner only on the basis of the cheques issued by him. He has also submitted that the petitioner has sent a legal notice to the de-facto complainant dated 08.07.2020 detailing the entire transactions. It is submitted that the said notice was not replied till now. The petitioner produced supporting documents viz., copy of the complaint dated 27.02.2020, receipt issued by the JJ Nagar Police Station, Anna Nagar, Chennai and copy of the legal notice dated 08.07.2020 in support of his submissions. Thus, he submitted that taking advantage of the fact of issuance of three cheques, this case is foisted against the petitioner.

5. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent/police submitted that both the transactions are different and the transaction concerning this case is different. He also submitted that the petitioner is a habitual offender and there is also a case registered against him before the Economic Offences Wing, Chennai in Crime No.5 of 2020. Thus, he prayed for dismissal of this petition.

6. This Court considered the rival submissions.

7. May be there is a previous case pending against the petitioner. While considering this Anticipatory Bail Petition, this Court is concerned about the merits of the contentions made by the rival parties in this case.

8. A perusal of the records shows that the petitioner has produced the documents supporting the submissions of the learned counsel that there was a loan transaction as early as on 25.08.2018, wherein the petitioner borrowed a sum of Rs.25,00,000/- and he claimed to have re-paid with interest. Thereafter, a complaint was given on 27.02.2020 before the JJ Nagar Police Station, Anna Nagar, Chennai making allegations against the de-facto complainant that he is threatening to pay more. Then, it is alleged that the petitioner issued three cheques as stated above. From the F.I.R., it is seen that there is a specific reference that the petitioner said to have issued three Axis Bank cheques for the payment of Rs.14,00,000/-. This allegation supports the case as projected by the learned counsel for the petitioner. It is apparent that the allegation made in the F.I.R., suffers from suppression of material information. Moreover, this is a fit case to be prosecuted under the Negotiable Instruments Act and it is not a case to be registered under Sections 406, 420 and 506(Part-1) of IPC. The allegation of criminal intimidating can be made by anyone against anybody.

9. Taking into consideration the entire factual matrix of this case, this Court is of the considered view that custodial interrogation of the petitioner is not necessary and accordingly, this Court is inclined to grant anticipatory bail to the petitioner subject to certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of seven days from the date of receipt of a copy of this order, before the **learned II Metropolitan Magistrate, Egmore, Chennai** on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- only (Rupees Twenty Five 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 his 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;

(b) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(c) **the petitioner shall report before the Investigating Officer daily at 10.30 a.m. until further orders.**

(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 has 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];*** and;

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

-sd/-
06/05/2022

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.II, EGMORE, CHENNAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
G-7, CHETPET POLICE STATION,
CHENNAI.

+1 CC to M/S.M.BASKAR-/1674/2001 Advocate on payment of necessary charges SR.NO.6801

CRL OP.10484/2022

Date :06/05/2022

TA-11/05/2022