



WEB COPY

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

Reserved on : 24.02.2022

Pronounced on : 03.03.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2136 of 2022

1. C.M. Jaya Prakash,

2. Chitra, ... Petitioners/Accused Nos.1 & 2
Vs

THE STATE REP BY,
The Inspector of Police,
Subramaniyapuram Police Station,
Madurai City. Madurai.
Cr.No.708 of 2021. ... Respondent/Complainant

M.Palani ...Intervening Petitioner/Defacto complainant
IN CRL. MP(MD)No.2324 of 2022

For Petitioners: Mr. Nirajan.S.Kumar, Advocate.

For Respondent : Mr.M.Muthu Manikkam,
Government Advocate (Crl.Side)

For Intervenor : Mr.R.Anandharaj, Advocate
IN CRL. MP(MD)No.2324 of 2022

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

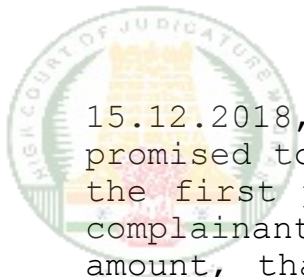
PRAYER :-

For Anticipatory Bail in Crime No. 708 of 2021 on the file of
the Respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections 294
(b), 323, 406, 420 and 506(ii) IPC, in Crime No.140 of 2021, seek
anticipatory bail.

2.The case of the prosecution is that the first petitioner is a
practicing Advocate and he is running a Club in the name and style
as 'Ideal Recreation Club', that the first petitioner in order to
develop the said club has received a sum of Rs.12 lakhs on

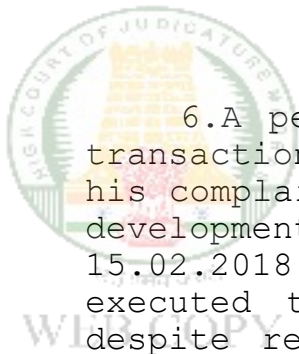


15.12.2018, and another sum of Rs.13 lakhs on 02.03.2019 and had promised to repay the amount along with regular interest, that since the first petitioner has not paid any amount towards interest, the complainant had requested him repeatedly to settle the entire amount, that on 14.09.2021 at about 06.00 pm in front of the said Ideal Club, the petitioners 1 and 2 in their Car bearing Registration No. TN 58/AH-1271 came to that spot and had threatened the complainant with dire consequences, that though the defacto complainant has sent a complaint to the respondent Police, they have not taken any action and that therefore, the defacto complainant was constrained to file a complaint before the learned Judicial Magistrate, No.IV Madurai and based on the orders passed in Crl.M.P.No.8806 of 2021, the present FIR came to be registered.

3.The petitioners' case is that the first petitioner, was the Treasurer and one Sasikumar was the Secretary of the said Ideal Recreation Club, that subsequently some more persons have joined in the said Club and also invested proportionate amounts for developing the Club, that the first petitioner had obtained a loan of Rs.6.50 lakhs from the defacto complainant and for securing the said loan, the first petitioner has signed six promissory notes and gave it to the complainant as security, that the first petitioner has paid interest regularly, that the defacto complainant after some time started to insist for exorbitant rate of interest and also wanted some more additional security and on such insistence, the cheque of the Ideal Recreation Club was given to him, that the petitioners had subsequently repaid the entire amount with interest, that the first petitioner received the six signed promissory notes and cheques from the first petitioner and kept it in his drawer in the Office room, that since the defacto complainant was also sharing the Office premises with the first petitioner, the defacto complainant with *malafide* intention had opened the drawer and taken six signed promissory notes and cheque drawn by the Ideal Recreation Club and that when the same was questioned, the defacto complainant had threatened the petitioners with dire consequences.

4.The learned counsel for the petitioners would submit that though the first petitioner had obtained loan of Rs.6.50 lakhs, he has repaid Rs.13 Lakhs towards interest alone and due to pressure put by the defacto complainant, the principal amount of Rs.6.50 lakhs along with Rs.1 lakh towards proportionate interest was also settled and the documents, which were given as security, have also been received back and that the defacto complainant with *malafide* intention had taken back the promissory notes, cheques and agreements from the Office bearers of the first petitioner and utilized the same with criminal intention.

5.The learned counsel for the petitioners would further submit that the complainant ought to have filed the suit for recovery of money and that he has admitted to convert the civil dispute into a



6.A perusal of FIR would only reveal that there existed money transaction dispute between the parties. The defacto complainant in his complaint has specifically alleged that the first petitioner for development of their Club had taken loan of Rs.12 Lakhs on 15.02.2018 and Rs.13 Lakhs on 02.03.2019, that the petitioners had executed the promissory notes therefor and that the petitioners despite repeated requests of the complainant, have not chosen to repay the amount and that when the same was questioned, they have threatened with dire consequences.

7.As rightly contended by the learned counsel for the petitioners, the defacto complainant should have filed a suit for recovery of money and in case of dishonored cheque allegedly issued by the petitioners, he should have taken proceedings under Section 138 r/w 142 of Negotiable Instruments Act.

8.As rightly contended by the learned counsel for the petitioners, the defacto complainant by alleging the present complaint, has only been attempting to give to the civil dispute a criminal color or flavour.

9.Considering the facts and circumstances of the case and also the facts that there existed money transaction dispute between the parties and that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions.

10.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.IV, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a)the petitioners 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 petitioners shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

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

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

<https://hccservicescourts.gov.in/hccservices/>



(e) 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;

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

sd/-
03/03/2022

/ TRUE COPY /

/ /2022

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

DAS

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 NO.IV
MADURAI
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
SUBRAMANIYAPURAM POLICE STATION,
MADURAI CITY, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADRURAI.

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate(SR-1717[I]dated 04/03/2022)

ORDER
IN
CRL OP(MD) No.2136 of 2022
Date :03/03/2022