



WEB COPY

CRL OP(MD). No.3711 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 05.04.2022

PRONOUNCED ON: 12.04.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.3711 of 2022

1.Arun Kumar

2.Karthika

Vs

... Petitioners/Accused Nos.1 and 2

1.The State Rep by,
The Inspector of Police,
District Crime Branch,
Thanjavur District.
(Crime No. 2 of 2022)

... Respondent/Complainant

2.R.Ambethcar

...2nd Respondent

[R2 suo motu impleaded vide order dated
24.02.2022 in Cr1.O.P.(MD)No.3711 of 2022]

Selvendran,

...Petitioner/Victim
in CRL MP(MD)No.3403 of 2022

Vishnu Sagar

...Petitioner/Victim
in CRL MP(MD)No. 3404 of 2022

For Petitioner : Mr.B.Jameel Arasu,Advocate

For Respondent 1 : Mr.M.Muthumanikkam
Government Advocate (Cr1. side)

For Intervenors: Mr.M.Karunanithi, Advocate



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

PRAYER :-

For Anticipatory Bail in Crime No.2 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 420 IPC in Crime No.2 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first accused and the de-facto complainant are close friends for the past 20 years, that in view of such friendship and acquaintance, the first accused approached the de-facto complainant that he is doing share market business and if any one invest some amounts, there will be very good returns, that the complainant on believing such statement of the first petitioner, has paid Rs.27,00,000/- through bank transactions in the name of the first accused, his wife and sister, that thereafter, the first accused did not return any amount and on persistent demands, he paid only Rs.7,00,000/- on various dates and failed to refund the balance amount and that when the complainant demanded the amounts, the first accused has threatened the de-facto complainant with dire consequences.

3.The case of the petitioners is that they are innocents and they have not committed any offence as alleged by the prosecution and that their names were falsely implicated on the strength of their relationship.

4.When the matter was taken up for hearing on 24.02.2022, considering the submissions made by the learned counsel for the petitioners and the learned Government Advocate (Crl. side) and the nature of the dispute, this Court has *suo-motu* impleaded the de-facto complainant as second respondent in this petition and notice was ordered to be issued.

5.Mr.M.Karunanithi, learned counsel has entered into an appearance for the de-facto complainant and two other persons, Selvendran and Vishnu Sagar claiming to be the victims, have filed intervening petitions in Crl.MP(MD)Nos.3403 and 3404 of 2022.

6.The case of the two intervenors is that the two intervenors and the de-facto complainant along with one Michael have deposited money with the accused 1 and 2, that nearly 40 persons have lodged complaints before the Superintendent of Police, Thanjavur stating that they have been cheated by the very same accused with the same *modus-operendi* and that the two intervenors have given particulars about the payments allegedly made by them.

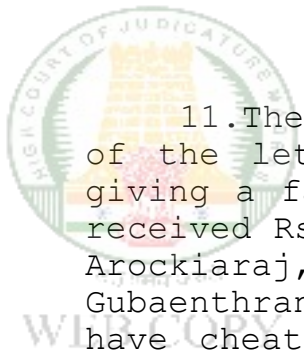


7. According to the intervenor Selvendran, he has deposited Rs.13,00,000/- in the account of one Indira as directed by the accused 1 and 2, that totally Rs.62,00,000/- was received from the above said four persons and that after collecting crores of rupees, the accused have purchased many landed properties in Thanjavur. According to the intervenor Vishnu Sagar, he has deposited Rs.8,00,000/-.

8. After filing of the above two intervening petitions, the petitioners/A1 and A2 have filed a petition in Crl.M.P.(MD)No.3797 of 2022 to implead the proposed respondents 3 to 5 as respondents in the main petition in Crl.O.P.(MD)No.3711 of 2022. The petitioners, by alleging that the proposed parties were witnesses to the transactions, have sought for their impleadment. In the affidavit filed in support of the impleading petition, it has been stated that the accused have paid Rs.4,16,666/- and a sum of Rs.1,00,000/- through one Michael Arockiaraj/the third proposed party and that therefore, he is a necessary party to the above petition. Regarding the other two proposed parties, the petitioners have not raised any specific averments. But in the affidavit, it has been stated that if the proposed parties 3 to 5 are impleaded, truth will come to light and except the above, the petitioners have not assigned any reason or ground for impleading the proposed parties.

9. The learned counsel for the petitioners would submit that if the proposed parties are examined, truth will come out and the same would go to show that the petitioners have already repaid the amounts to the de-facto complainant and the intervenors. This Court being the bail Court, is not conducting any investigation or enquiry or trial of the case and as such the impleadment of the proposed parties is totally unwarranted. If it is the case of the petitioners that the proposed parties will be the witnesses to prove the alleged repayment, then the petitioners can very well approach the investigating officer and give the particulars and the list of witnesses, who are supporting their case. Hence, the impleading petition in Crl.M.P.(MD)No.3797 of 2022 is liable to be dismissed instantly.

10. No doubt, the petitioners have also produced the copies of the complaints filed under Section 200 of Cr.P.C. for the offences under Sections 138 and 142 of the Negotiable Instruments Act by the first accused against one Tmt.Indira. But according to the de-facto complainant and the intervenors, it was between the first accused and the said Indira and for the alleged dishonour of cheques and that they have deposited the amounts in the names of the first petitioner, his wife and sister and the said Indira and as such, the disputes now allegedly between the first accused and the said Indira cannot be taken as a reason or ground for rejecting the said complaints.



11.The learned Government Advocate (Crl. side) has filed a copy of the letter sent by the respondent police that the accused by giving a false promise to repay the amounts with good returns, has received Rs.13,00,000/- from Selvendran, Rs.18,00,000/- from Michael Arockiaraj, Rs.8,00,000/- from Vishnu Sagar and Rs.27,00,000/- from Gubaenthiran W/o. Nilavu and that the accused, without repayment, have cheated them. The Investigating Officer has further stated that they have received some more complaints against the accused and that if the petitioners are released on bail, they would definitely abscond. Though the petitioners have taken a main stand that they have repaid the amount, they have not produced any materials or evidence to prove the alleged discharge.

12.Considering the above facts and circumstances and also the nature and gravity of the offences alleged and the quantum of amount involved and that the investigation is pending as stated by the learned Government Advocate (Crl. side), this Court is not inclined to grant anticipatory bail to the petitioners.

13.In the result, this Criminal Original Petition is dismissed.

sd/-

12/04/2022

/ TRUE COPY /

/ /2022

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

SJI

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 INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THANJAVUR DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.KARUNANITHI, Advocate (SR-3342[I] dated 13/04/2022)
+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-3378[I] dated 13/04/2022)

ORDER

IN

CRL OP(MD) No.3711 of 2022

Date :12/04/2022

PKP/JM/SAR-2/21.04.2022/4P/5C

<https://hcservices.ecourts.gov.in/hcservices/>