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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 05/01/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.19511 of 2021

1. S.N.Ponraj
2. Viswaroopan

... Petitioners/Accused 1 & 2

Vs.

State through
The Inspector of Police,
South Gate Police Station,
Madurai.
(In Crime No.509 of 2021)

... Respondent/Complainant

Venkatesan

... Petitioner/Intervener/Defacto-
Complainant
(in Crl.MP.(MD)No.11196/2021)

For Petitioners : M/s.N.Ananthapadmanabhan
for M/s.APN Law Associates

For Respondent : M/s.SS.Madhavan
Government Advocate (Criminal side)

For Intervener : M/s.L.ShajiChellan, Advocate

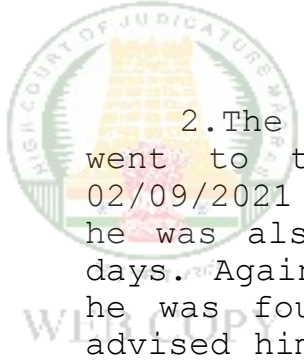
PETITION FOR ANTICIPATORY BAIL under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.509 of 2021 on the file of
the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 apprehending
arrest at the hands of the respondent police for the offences
punishable under section 506(i) IPC and section 15(3) of Medical
Council Act, in Crime No.509 of 2021 on the file of the respondent
police, seek anticipatory bail.



2.The case of the prosecution is that the de-facto complainant went to the clinic, which was run by the 2nd petitioner, on 02/09/2021 for treatment and at that time, he was attended by A1 and he was also given treatment by him and prescribed medicine for 3 days. Again, on 06/09/2021, he went for check up and at that time, he was found that A2, who was a qualified medical practitioner, advised him to consult the senior dentist. So he went to the clinic of the first accused and consulted him. Prescription was also prepared, but that was signed by A2, which created suspicion in the mind of the de-facto complainant. When that was enquired, both the petitioners threatened the de-facto complainant and criminally intimidated him. So on the basis of the complaint, this case has been registered.

3. Seeking anticipatory bail, this petition came to be filed by the petitioners on twin grounds. The first ground is that the offence under section 15(3) of Medical Council Act is a non cognizance offence, which cannot be investigated by the police and only private complaint process will lie. So far as the offence under section 506(i) IPC is concerned, according to him, no ingredients of the offence are attracted, even as per the allegations made in the FIR.

4. Heard both side.

5. It is admitted by the 2nd petitioner that he is a Dental Medical Practitioner in Dental science. According to the prosecution, A1 who is the father of A2 and he is not a qualified medical practitioner, but was practicing medicine in the field of dental surgery and cheated the public by giving treatment etc.

6. The learned counsel appearing for the intervener/de-facto complainant would submit that such sort of illegal activity was going on for a longer time. He has also taken the photographs of the incident of giving treatment by the 2nd petitioner. So according to him, such sort of activities could not be permitted to continue. Even though the offence of 420 IPC is attracted, the police has not registered the case.

7. When the learned counsel appearing for the intervener/de-facto complainant pointed out that he has taken photographs of A1, while he was performing surgery and treatment, a specific question was put that such sort of activities without the consent and knowledge of A1 is permissible in law. For that, he would reply that except this kind of attempt, there is no possibility for him to collect any evidence against the illegal activities of A1. Even though collection of evidence has shown by the de-facto complainant is not permissible under law, this issue need not be given any importance. The photographs can be handed over to the respondent police for the purpose of further investigation.



8.It is also seen that the de-facto complainant moved the petition before the Judicial Magistrate No.4, Madurai, under section 156(3) Cr.P.C, in CrI.MP No.8206 of 2021. Based upon which, the case has been registered.

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9.The photograph also shows that A2 was performed surgery and treatment. According to the learned counsel for the de-facto complainant, the de-facto complainant was threatened by the petitioners to give a pose, as if they are giving treatment. But I am unable to agree with the said contention put forth on the side of the de-facto complainant. The fact remains that A1 is a qualified medical practitioner, whereas A2 is the qualified person of dentist, who is the son of A1. It appears that A1 also performing surgery and also giving treatment without proper qualification. No doubt, A1 must be properly proceeded in accordance with law.

10.However, considering the facts and circumstances of this case, no custodial interrogation of the petitioners is required, since everything is born out by records. So, this court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.4, Madurai and on each of them executing 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 am until further orders. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

Sd/-
05/01/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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.



1. THE JUDICIAL MAGISTRATE NO.4,
MADURAI.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

3. THE INSPECTOR OF POLICE,
SOUTH GATE POLICE STATION,
MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.APN LAW ASSOCIATES Advocate SR.No.126

+1. CC to M/S.L.SHAJICHELLAN, Advocate SR.No.536

ORDER

IN

CRL OP(MD) No.19511 of 2021

Date :05/01/2022

SP/JC/SAR II/20/01/2022/2P/7C