



WEB COPY



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

Dated: 05/08/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.20731 of 2021

A.Syed Ahamed Basith ... Petitioner/Accused No.2

Vs.

1. State through
The Inspector of Police,
S.S Colony (Crime)
Madurai.
(Crime No.1015 of 2021)

... Respondent/Complainant

(*) 2.Sankar

... 2nd Respondent/Defacto
Complainant

(*) (R2-Suo Motu impleaded as per order
of this Hon'ble Court dated 23.12.2021
in Crl.O.P.(MD)No.20731/2021 by GIJ)

For Petitioner : Mr.D.Malai Chamy, Advocate

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate(Criminal side)

For 2nd Respondent : Mr.R.Anandharaj, Advocate

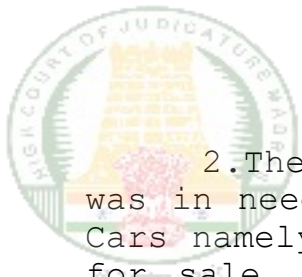
PETITION FOR ANTICIPATORY BAIL under Sec.438 of Cr.P.C

PRAYER:-

For Anticipatory Bail in Crime No.1015 of 2021 on the file of
the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as A2 apprehending arrest at
the hands of the respondent police for the offence punishable under
section 420 IPC, in Crime No.1015 of 2021 on the file of the
respondent police, seeks anticipatory bail.



2.The case of the prosecution is that the de-facto complainant was in need of a Car. He informed the same to the owner of Pandian Cars namely Prabhu. He informed that Innova Crista Car is available for sale. He also told that one Basith also doing the very same business. On 10/12/2021, he purchased the above said Car for Rs.12,00,000/-. The amount was paid to the above said Prabhu, who is the owner of the Pandian Cars. Apart from that, Rs.3,50,000/- was paid in cash in the presence of Basith. When it was taken for repair to Innova Service Station in Vellore, they told that all the spare parts are fake. When he enquired with the above said Prabhu, both Prabhu and Basith threatened him stating that Basith is the son of a deceased Police Officer. Based upon the complaint given by the de-facto complainant, the case was registered.

3.Seeking anticipatory bail, the Basith, who is arrayed as A2 filed this petition on the ground that he is only a secondhand car sales businessman and he has purchased the alleged vehicle as if in where condition from the vendor. Similarly this was also purchased from Mercury Finance, on 12/01/2021 and A1 is a dealer of used Cars in Madurai. The de-facto complainant purchased the Car from A1 and this petitioner is nothing to do with the same and this petitioner was a commission agent in this matter. After investigation, the vehicle was taken by the de-facto complainant for test drive and through his mechanic only it was purchased, which was financed by the TVS Company for Rs.12,00,000/-.

4.When the matter was referred to Mediation and Conciliation Centre, attached to this Bench, it could not be settled for one or other reasons.

5.From the factual aspect, it is seen that who is responsible for the above said fake spare parts is a matter for investigation. Actually the de-facto complainant purchased the Car only from A1, which according to him, it was supplied only by this petitioner. Now the custodial interrogation of the petitioner may not be required in the facts and circumstances of this case. Even though strong objection was made by the intervenor, as mentioned above, the factual aspects are required to be taken into consideration. When the finance company has extended the loan, how the inspection was not carried out properly is also a matter for consideration by the Investigating Officer. Since the finance has been done by the company, usually it has to be done after going through the checking of the vehicle and other documents. So if we look into the dispute from any angle, the petitioner is entitled for anticipatory bail.

6.Considering the above facts and circumstances of the case, this court is inclined **to grant anticipatory bail** to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.V, Madurai and on his 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 petitioner shall appear before the respondent police, daily at 10.00 am until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. The petitioner 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 stands dismissed.

Sd/-
05/08/2022

/ TRUE COPY /

/08/2022
Sub-Assistant Registrar (C.S.IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

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.V,
MADURAI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
S.S.COLONY (CRIME), MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.20731 of 2021
Date :05/08/2022

SP/JM/SAR IV/25/08/2022/3P/5C