



CRL OP(MD). No.19750 of 2024

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

Date : 15/11/2024

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

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1. Pandi Ganapathy
2. Ganeshan
3. Saraswathi
4. Gayathri
5. Ilavarasy

... Petitioners/ Accused No.3 to 7

Vs

1. The State of Tamilnadu,
Rep. by the Deputy Superintendent of Police,
CBCID, Madurai Zone,
Madurai.

2. The Inspector of Police,
CBCID South,
Madurai City.
Crime No. 03/2024.

... Respondents/Complainants

For Petitioners : Mr.R.Gandhi, Senior Counsel
for M/s. Gandhi Associates,

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor

For Intervener : Mr.S.Poornachandran, Advocate



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PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Crime No. 03 of 2024 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 448, 120(B), 406, 420, 294(b), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 in Crime No.03 of 2024 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is running a private company. He initially borrowed a sum of Rs.20 lakhs from A2 through A1. Even for this borrowing exorbitant interest was charged by them. Thereafter, for business purpose, the defacto complainant borrowed a sum of Rs.1.7 crores on various occasions. The specific case of the defacto complainant is that he had repaid back a sum of Rs.2.23crores through bank transaction. In spite of the same, the accused persons were demanding exorbitant interest and they entered into the house of the defacto complainant, threatened with dire consequences and also took away the two wheeler and car of the de facto complainant.

3.The defacto complainant initially gave a complaint to the police, which



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was not acted upon. Therefore, he had filed an application under Section 156(3) of

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Cr.P.C before the Magistrate. Based on the direction, no action was taken.

Therefore, the defacto complainant approached this Court and filed a petition in Crl.O.P(MD) No. 11179 of 2024. This Court by order, dated 08.08.2024 transferred the investigation to the file of CBICD Police Station. Pursuant to the same, FIR has been registered in Crime No. 3 of 2024. There are totally 9 accused persons and the petitioners are arrayed as A3 to A7.

4.Mr. R. Gandhi, the learned Senior counsel appearing on behalf of the petitioners, submitted that a false case has been foisted against the petitioners, pursuant to 138 NI Act proceedings initiated against the defacto complainant by A2, which is pending in STC No. 2 of 2024 before the Judicial Magistrate No. 2, Fast Track Court, Madurai. The learned Senior counsel submitted that out of a sum of Rs. 20 lakhs, the defacto complainant had repaid only a sum of Rs. 7 lakhs and for the balance amount he has issued a cheque, which was dishonoured, resulting in filing of private complaint for the offence under Section 138 of NI Act.

5.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that A1 and A9 are the son and father. A2 and A3 are brothers and they are partners along with A1. A4 and A5 are the father and mother of A2 and A3. A6 is the wife of A2 and A7 is the wife of A3. A8 is the Collection



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Agent working for A2 and A3.

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6.The learned Additional Public Prosecutor further submitted that in this case, the defacto complainant after having borrowed a sum of Rs.1.7 crores, had repaid back nearly Rs. 2.23 crores, which is borne out by bank transactions. In spite of the same, the accused persons were demanding for exorbitant interest. Thereafter, they also threatened the complainant and took away the car and the two wheeler belonging to the defacto complainant. It was submitted that A2 has already been arrested in this case and A1, A8 and A9 are absconding. That apart, as against first and second petitioners (A3, A4), there is one previous case pending in Crime No.519 of 2019 for the offence under Section 306 IPC.

7.The learned Additional Public Prosecutor submitted that considering the serious allegations made in this case and the fact that the two wheeler and four wheeler were taken away from the house of defacto complainant and is yet to be recovered, custodial interrogation is required. Hence, the learned Additional Public Prosecutor sought for dismissal of the petition.

8.The learned counsel appearing for the defacto complainant reiterating the submission made by the Additional Public Prosecutor submitted that the defacto complainant has been fleeced by the accused persons with exorbitant interest and he has repaid back much more than what he had borrowed and the



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same is borne out by bank transactions. The learned counsel further submitted that the defacto complainant has been put under threat and more amount is demanded from him, for which, the two wheeler and four wheeler were illegally taken away from the house of the defacto complainant.

9.This Court carefully considered the submissions and perused the materials available on record.

10.In the considered view of this Court, the entire transaction is borne out by records. What has been borrowed by the defacto complainant and what has been repaid back by the defacto complainant is available by means of bank entries. The only thing left is the two wheeler and the four wheeler which are said to have been taken away from the house of the defacto complainant and which is yet to be seized. A4 is aged about 63 years and A5 to A7 are ladies.

11.Considering the facts and circumstances of the case, custodial interrogation may not be required in this case insofar as the petitioners are concerned. In view of the same, this Court is inclined to enlarge the petitioners on anticipatory bail.

12.Accordingly, this criminal original petition is ordered and the petitioners are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy



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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.10,000/- (Rupees Ten Thousand only) each 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 said Magistrate, on further condition that:

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[b] 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.

[c] the first and second petitioners (A3,A4) shall report before the respondent police daily at 10.30a.m., for a period of three weeks, and thereafter, as and when required for interrogation. The petitioners 3 to 5 (A5 to A7) shall report before the respondent Police as and when required for interrogation;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;



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[e] the petitioners shall not abscond either during investigation or trial;

[f] 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;

[g] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/11/2024

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/11/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

To

1.The Judicial Magistrate No.IV,
Madurai.



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2.Do through the Chief Judicial Magistrate,
Madurai District.

3.The Deputy Superintendent of Police,
CB-CID, Madurai Zone,
Madurai.

4.The Inspector of Police,
CB-CID South, Madurai City.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.GANDHI ASSOCIATES, Advocate (SR-14108[I] dated 15/11/2024)

ORDER

IN

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Date :15/11/2024

ED/ /SAR- (27/11/2024) 8P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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