



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

Date : 30/11/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.13555 of 2020

1. Meera	
2. G.Sanjai	... Petitioners No.1 and 2/ Accused No.1 and 2
3. R.Jeyaraman	
4. G.Sujatha	
5. R.Arunkumar	... Petitioners 3 to 5/ Accused Rank Not Known

Vs

State Rep.by The Inspector of Police, Theni Police Station, Theni, Theni District. Crime No.3808 of 2020	... Respondent/Complainant
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For Petitioners: Mr.Ajmal Khan, Senior Counsel for
Ajmal Associates

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervener : Mr.Veera Kathiravan, Senior Counsel
for Veera Associates

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

PRAYER :- For Anticipatory Bail in Crime No.3808 of 2020 on the file
of the Respondent Police.

ORDER : The Court made the following order :-

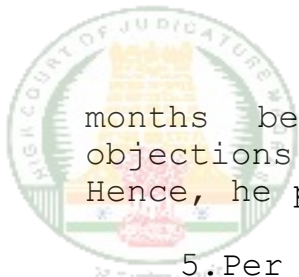
The petitioners, who are arrayed as A1 to A5, apprehending
arrest at the hands of the respondent police for the offences
punishable under Sections 147, 294(b), 447, 465, 468, 420 and 506(i)
of IPC, in Crime No.3808 of 2020 on the file of the respondent
police, seek anticipatory bail.



2.The case of the prosecution is that the defacto complainant was engaged transport services under the name and style of Fathuma Bus Service. In order to develop his profession, the defacto complainant needed some money to the tune of Rs.1 crore. Thereafter, A2 has approached the defacto complainant and also offered to avail loan from the first accused. Therefore, A1 and A2 have entered into agreement with the defacto complainant and agreed to lend a loan to the tune of Rs.1 crore that would be paid with interest at the rate of 12% per annum and in order to secure his debt, the defacto complainant transferred his route permit of two buses bearing Reg. No.TN 60 H 8230 and TN 57 T 3006 in favour of the first accused. When the defacto complainant discharge his entire debt to the first accused, the first petitioner ought to have transferred the above said documents in favour of the defacto complainant. Hence, the present complaint.

3.Heard the learned senior counsels appearing for the petitioners and the intervener and the learned Government Advocate (Crl. Side) appearing for the respondent.

4.The learned senior counsel appearing for the petitioner submitted that the present compliant is nothing but clear abuse of process of law, in fact, the first accused never offered to avail loan to the defacto complainant. The defacto complainant has approached A1 and A2 to sell his buses with plying route permit. Therefore, A1 and A2 have also agreed to purchase the permit as well as buses for a sum of Rs.5 crores, in which, Rs.12 lakhs was fixed and transferred to the defacto complainant through bank and remaining amount have been paid by cash. Accordingly, the defacto complainant personally appeared before the RTO office, Theni, and also signed in the transfer of permit and also signed in the transfer of ownership. Accordingly, the permit of the buses have been transferred in the name of the first accused and thereafter, the defacto complainant refused to hand over the buses to the petitioners as agreed by him. Therefore, the first accused has lodged a complaint before the authorities concerned with allegations that after transferring the permit, the defacto complainant is running buses for tourist purpose without permit. He further submitted that the first petitioner has sent a representation on 04.09.2020 itself to the police officials and without authorities concerned alleging that after receipt of entire money and also after transferring the permit of buses the defacto complainant refused to hand over the buses to the first petitioner. While being so, the said complaint has been lodged with false allegations that the defacto complaint borrowed loan to the tune of Rs.12 lakhs for his security purpose and signed not transfer of permit form. He further submitted that the first petitioner has also filed a writ petition in W.P.(MD).No.14711 of 2020 and it is pending. Therefore, the custodial interrogation of the petitioner does not require. He further submitted that as per rule 213 of Tamil Nadu Motor Vehicles

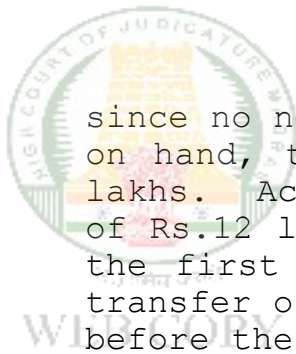


months before the Regional Transport Authority and now the objections has also filed and it is pending for consideration. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. Per contra, the learned Senior counsel appearing for the intervener/defacto complainant submitted that the second petitioner is close relative of the first petitioner and they have approached the defacto complainant and the defacto complainant availed loan to the tune of Rs. 1 Crore and the petitioners has only paid a sum of Rs.12 lakhs to the defacto complainant and for the purpose of security, he signed in the transfer of permit. Thereafter, the accused did not repay the remaining amount as agreed by them. He further submitted that without consent of the defacto complainant, they have also transferred the permit in their name. He further submitted that the petitioner have also forged the signature of the defacto complainant as if he has signed in the transfer of permit in respect of the bus and transferred in their name. He further submitted that the transfer of permit as well as the ownership of the buses, the first petitioner has filed a writ petition only to escape from the clutches of law before this Court. Therefore, the respondent rightly registered the present case as against the petitioners. He further submitted that the petitioners have forged the signature of the defacto complainant and transfer the ownership of buses as well as the permit in their favour. Therefore, the custodial interrogation of the petitioners is very much required. Hence, he prayed to dismissal of this petition.

6. The learned Government Advocate (Crl. Side), appearing for the respondent Police adopted the arguments made by the learned Senior counsel appearing for the intervener/defacto complainant.

7. It is seen that totally there are five accused in this case, in which, the petitioners have been arrayed as A1 to A5. It is also seen that the first and second petitioners lend a sum of Rs.12 lakhs as loan to the defacto complainant, for which, the defacto complainant signed transfer of permit in favour of the first petitioner. The first and second petitioners have agreed to lend a sum of Rs.1 Crore, in which, they paid a sum of Rs.12 lakhs and thereafter, they failed to pay the remaining amount of Rs.88 lakhs to the defacto complainant. It is also seen that the defacto complainant signed in the transfer of permit and accordingly, the permit of the buses have now been transferred in favour of the first petitioner. Thereafter, the defacto complainant has also transferred the ownership of the bus in favour of the first accused. The defacto complainant has only signed the transfer of permit and he never signed ownership of the buses and his signature has been forged by the accused persons and transferred the ownership of the buses in his name. Section 89 of the Motor Vehicles Act, 1988, contemplates and provides an appeal as against the grant of permit or any order passed by the Regional Transport Authorities. It is



since no new permit is permitted to any private persons. In the case on hand, the defacto complainant has received only a sum of Rs.12 lakhs. According to the defacto complainant, he has received a sum of Rs.12 lakhs and he signed in the transfer of permit in favour of the first petitioner. Though the disputed signature found in the transfer or ownership of bus is concerned, now it is under challenge before the Regional Transport Authority under Rule 213 of Tamil Nadu Motor Vehicles Act, 1989. Therefore, the custodial interrogation of the petitioners are not required.

8.Considering the facts and circumstances of the case and also considering the fact that no offence is made out against the petitioner, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court, Theni, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition 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 1 and 2 shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required for interrogation. Further, the petitioners 3 to 5 shall report before the respondent Police 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;

(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/petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
30/11/2020

/ TRUE COPY /

WEB COPY

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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, THENI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
THENI POLICE STATION, THENI, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC to M/s.VEERA ASSOCIATES, Advocate (SR-7773[I] dated 01/12/2020)

+1CC to M/s.AJMAL ASSOCIATES, Advocate (SR-7777[I] dated 01/12/2020)

ORDER
IN
CRL OP(MD) No.13555 of 2020
Date :30/11/2020

MS/VR/SAR-2/14.12.2020/5P.7C