

In the Court of the Principal Sessions Judge, Madurai.

Present : Thiru. P.Vadamalai, B.Com., B.L.,

Principal Sessions Judge, Madurai.

Saturday, this the 23rd day of January -2021.

Crl.M.P.No.232/2021

A.Mohammed Asarudeen, S/o.Akbar Ali

... Petitioner/Accused.

Vs

State through the Inspector of Police,

DCB Madurai P.S. Cr.No.38/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.S.Alagumurugan, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Bail application u/s. 439 Cr.p.c.
2. The offence alleged are under Sections 406, 420, 468 and 471 of IPC
3. The defacto complainant/intervening petitioner has filed an intervening petition and he is permitted to assist the public prosecutor.
4. Heard both.
5. The learned counsel for the Petitioner made a submission before this Court that a case has been registered against the petitioner in Cr.No. 38/2020 for the offences under section 406, 420, 468 and 471 of IPC. The Petitioner was arrested and remanded to judicial custody on 25.12.2020 and he is in judicial custody for the past 30 days. It is only money transaction between the petitioner and the defacto complainant and compromise between them is going on. The petitioner is ready to give money. Hence the petitioner may be granted bail.

6. The learned Public prosecutor and the learned counsel for the intervening petitioner submitted that totally there are 6 accused in this case and the petitioner is arrayed as A1. It is a case of job rocketing. The case of prosecution is that the petitioner along with other accused are obtained a sum of Rs. 7,25,000/- from the defacto complainant in order to send 10 persons to abroad for employment and issued fake Visa. Subsequently, the petitioner did not repay the amount to the defacto complainant and cheated him. That the amount was collected by the defcato complainant from 10 persons. When the defacto complainant asked about the same one of the accused gave Rs.50,000/- alone and remaining amount are yet to be recovered. The learned counsel for the intervening petitioner would submit that he has no objection if the Court order the petitioner to deposit 50% of amount and remaining amount within 2 months.

7. The Petitioner along with other Accused are said to have cheated the defacto complainant a sum of Rs.7,50,000/- consequently, the present case came to be registered. Totally 6 accused involved in this case, and the petitioner is arrayed as A1 and out of the said amount Rs.50,000/- alone recovered and remaining amount is to be recovered. It is the contention of the learned counsel for the petitioner that compromise is going on. According to the learned counsel for the intervening petitioner, he prays for an order for deposit of cheated amount. As per the Hon'ble Apex Court order in Petition for Special Leave to Appeal (Crl.) No.10484/2019 dated 19.1.2021, it is observed that “ A Criminal Court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realize the dues of the complainant, and that too, without any trial” So the argument of the learned counsel for the intervening petitioner with regard to the deposit of amount is not accepted by this Court. and he is in duress for the past 30 days. Substantial part of investigation might have been completed by now. Hence, considering the

duration of the custody of the petitioner, and the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner on condition.

In the result, the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- along with two sureties for a like sum each to the satisfaction of Judicial Magistrate, No.1, Madurai subject to condition

(I) that after release the petitioner shall appear and sign before the Inspector of police, respondent police station **daily twice at 10.00a.m. and 5.00 p.m.until further orders.**

(ii) The petitioner shall co-operate with the investigation and he shall not threaten the witnesses. He shall not induce witnesses and he shall not cause obstacles to the pending investigation.

If there is any violation of condition, the Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate, concerned for cancellation of bail even though bail granted by the Sessions Court as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji/Vs/State of Kerala, (2005) AIR S.C.W.5560.** Accordingly this petition is allowed.

Pronounced by me in Open Court on the 23rd day of January -2021.

Sd/- P.Vadamalai

Principal Sessions Judge, Madurai

Copy to

1. The J.M.No.1. Madurai.
2. The Inspector of Police, DCB Madurai P.S.
3. The Superintendent, Central Prison, Madurai.
4. The Petitioner through his counsel.