

In the Court of the Principal District Judge, Madurai.

Present : Tmt.N.Nagalakshmi, M.A., B.L.,

Principal District Judge (Incharge), Madurai.

Thursday, this the 01st day of October -2020.

Crl.M.P.No.4401/2020

Vadivel Karuppaiah,S/o.Kanthasamy

... Petitioner/Accused.

Vs

State through the Inspector of Police,

Tallakulam,P.S. Cr.No.241/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.P.Santhakumaresan, 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 of Cr.p.c.

2. The offences alleged are U/s. 406 and 420 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 sides.

5. The learned counsel for the petitioner submitted that the petitioner was remanded on 30.8.2020 and he is in custody for the past 33 days. Already anticipatory bail was granted to the petitioner by the Hon'ble High Court in CrI.O.P.(MD) No. 2461/2020 dated: 12.2.2020. The petitioner was affected by Covid-19 and hence, he is unable to abide the condition imposed by the Hon'ble High Court. Therefore, the anticipatory bail granted to the petitioner was cancelled by the Hon'ble High Court. Now, the petitioner has paid Rs.10 lakhs to the defacto complainant. Hence, prays to grant bail to the petitioner.

6. The learned public prosecutor and the counsel for the intervene petitioner submitted that the petitioner and his wife cheated the defacto complainant a sum of Rs.20,10,000/-. The petitioner and his wife have moved anticipatory bail before the Hon'ble High Court in Crl.O.P.(MD) No. 2461/2020 and the same was allowed on condition that they would remit a sum of Rs.10 lakhs directly to the defacto complainant by way of a demand draft in favour of him within a period of four weeks from the date of receipt of copy of the order. But, the petitioner has not paid any amount to the defacto complainant and hence, the anticipatory bail granted to the petitioner was cancelled by the Hon'ble High Court. Thereafter, the petitioner was remanded on 30.8.2020.

7. Further, the learned counsel for the intervene petitioner submitted that now the petitioner has paid Rs.10 lakhs to the defacto complainant by way of a demand draft and therefore, he has no objection in granting bail to the petitioner.

8. Upon hearing the rival submissions, it reveals that the petitioner has paid a sum of Rs.10 lakhs to the defacto complainant by way of a demand draft. The learned counsel for the intervene petitioner also admitted that the defacto complainant has received the amount from the petitioner. Therefore, considering the above facts and circumstances of the case, this court is inclined to grant bail to the petitioner on condition.

9. 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.2 , Madurai subject to condition that after release the petitioner shall appear and sign before the Inspector of police, respondent police station daily at 10.00a.m. until further orders. 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 1st day of October -2020.

Sd/- N.Nagalakshmi

Principal District Judge(i/c), Madurai

Copy to

- 1. The Judicial Magistrate No.2 , Madurai**
2. The Inspector of Police,Tallakulam,P.S.
3. The Superintendent Central Prison Madurai.
4. The Petitioner through his counsel.