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

Monday, the First day of August Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.7544 of 2016

1 K.SHANMUGA PRIYA
2 D.NARMATHA ... PETITIONERS/ACCUSED No.3&4

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
C.B.C.I.D., NAGERCOIL,
KANYAKUMARI DISTRICT.
(CRIME NO.60 OF 2008) ... RESPONDENT/COMPLAINANT
(Amended as per order of this
Honorable High Court made in
Crl.M.P.(MD)No.4734/2016 in
Crl.O.P.(MD)No.7544/2016
dated 16.06.2016 by V.M.V.J.)

For Petitioner : No Appearance

For Respondent : Mr.P.KANNITHEVAN, Government Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.3 and 4, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 409 and 420 IPC, in Crime No.60 of 2008 on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with two other accused persons made a false promise that if persons became the members of Tamil Nadu All Producers Welfare Association, Pasumalai, Madurai, they will arrange huge amount of loan for them. The de facto complainant and others became members and paid Rs.10,000/- as membership fee. The petitioners and other accused persons demanded a sum of Rs.2,19,560/- each as security deposit for arranging loan of Rs.8,00,000/-. The de facto complainant also paid Rs.2,19,560/- and other documents to the petitioners and other accused persons. Likewise, the petitioners and other accused persons received amounts from various persons as security deposit for arranging loan. Subsequently, the accused persons issued a cheque dated 21.06.2007 to the de facto complainant for a sum of Rs.8,00,000/-. On presentation in the bank for collection, the said cheque was returned as 'insufficiency of funds'. Again they issued another cheque dated 11.11.2007 to the de facto complainant for a sum of Rs.8,00,000/- and the same was also returned on the very same reason. The petitioners and other accused persons agreed to arrange the loan amount to the de facto complainant and others on or before 25.08.2008. Subsequently, they did not arrange any loan and thereby cheated them. On complaint, a case has been registered for the above said offences.

3.When the Criminal Original Petition was taken up for hearing on 21.07.2016, it is represented on the side of the petitioners that the petitioners will settle the issue and also sought for adjournment and accordingly the matter was posted on 28.07.2016 either for settlement or for disposal on merits. On 28.07.2016, there was no representation on the side of the petitioner and therefore this petition is posted today under the caption for dismissal and even today, there is no representation on the side of the petitioner. Therefore, as per the Registry's Notification No.103/JUDL/2016, dated 04.07.2016, notifying that the cases listed in the daily Cause list will be taken up for hearing without any adjournment and if there is no representation, such cases will be decided on merits, this petition is disposed of on merits on the basis of the materials on record and arguments advanced by the learned Government Advocate (Criminal side).

4.In the petition it is stated that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. There is no specific overtact attributed against the petitioners. They have not received any amount. A.1 and A.2 have received a sum of Rs.12,49,149/- and paid a sum of Rs.9,55,780/- to the aggrieved persons and only a sum of Rs.2,93,369/- alone is yet to be settled.

5.The learned Government Advocate (Crl. Side) submitted that the petitioners along with the other accused persons colluded together and on giving false promise of arranging loan, collected membership fees and huge amounts as security deposits and subsequently they did not arrange loan and they did not return the amount received as security and membership fees from the de facto complainant and others. The petitioners and other accused persons cheated number of persons and A.1 and A.2 agreed to settle the amounts and they paid only part of the amount and they did not settle the entire amounts. Investigation is pending. In this petition, the petitioners took time for settling the amounts and subsequently they did not settle the amount.

6.Considering the facts and circumstances of the case and also considering the serious nature of allegation that the petitioners and other accused persons, on the false promise of arranging huge loan, received amounts as security deposit and membership fees and cheated number of persons, this Court is not inclined to grant anticipatory bail to the petitioners and accordingly this petition is dismissed.

sd/-
01/08/2016

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

TO

1 THE INSPECTOR OF POLICE
C.B.C.I.D., NAGERCOIL,KANYAKUMARI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.7544 of 2016
Date :01/08/2016

smn
SH/NGM-MP/SAR-III:05.08.2016:3P/3C