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

Wednesday, the Seventh day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.3292 of 2018

KASIRAJAN, ... PETITIONER/1ST ACCUSED

Vs

THE STATE BY
THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION,
THOOTHUKUDI DISTRICT.
(CRIME NO.170 OF 2017) ... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.P.BANU PRASAD Advocate

For Respondent : MR.A.ROBINSON, Government Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner/accused No.1, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120-B, 468, 471 and 420 of IPC., in Crime No.170 of 2017, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant and A2 in this case are close friends. A2 introduced the defacto complainant to this petitioner/A1. Thereafter, the petitioner borrowed a sum of Rs.2,80,000/- towards hand loan from the defacto complainant and Rs.5,00,000/- from the defacto complainant's brother's wife, for which he issued four cheques for security purpose. Further, it is alleged that after receiving the loan amount, the petitioner failed to repay the same and also filed a civil suit in O.S.No.332 of 2015, before the learned Principal District Munsif, Thoothukudi for return of cheques issued by him, by forging the defacto complainant's signature. Hence, the present case has been registered against the petitioner.

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3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is

no way connected with the alleged offence and pleads for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondents submitted that the investigation is going on.

5.The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, the petitioner herein received a sum of Rs.2,80,000/- as a hand loan from the defacto complainant and Rs.5,00,000/- from the defacto complainant's brother's wife, for which he issued four cheques for the purpose of security. Subsequently, the loan amount was not repaid, due to which the defacto complainant initiated the proceedings under Section 138 of Negotiable Instruments Act, which was pending before the learned Judicial Magistrate No.IV, Thoothukudi. Further more, it is alleged that in order to file a civil suit, the petitioner obtained the signature of the defacto complainant forcibly. Since the case is pending with the learned Magistrate, we cannot come to the conclusion that the signature found in the disputed cheque is forged one or not. Moreover, the evidence to be collected for completing the investigation in this case are all in the form of documents. So, question of custodial interrogation does not arise. Therefore, considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.III, Thoothukudi, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) 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:

(i) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(ii) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(iii) the petitioner shall not abscond either during investigation or trial;

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(iv) on breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the 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].***

sd/-
07/03/2018

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

TO

1 THE JUDICIAL MAGISTRATE NO.III, THOOTHUKUDI

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT

3 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION, THOOTHUKUDI DISTRICT.

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

+1cc to MR.P.BANU PRASATH, Advocate in SR.No.3667

PJL
GJM/RR/CSL/SAR-4-14.3.18-3P-6C

ORDER
IN
CRL OP(MD) No.3292 of 2018
Date :07/03/2018

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