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

Date : 16/07/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.9304 of 2019

A.Udayakumar ... Petitioner/Accused No.2

Vs

State through
The Inspector of Police,
District Crime Branch,
Sivagangai,
Sivagangai District.
(Crime No.22 of 2019). ... Respondent/Complainant

For Petitioner : M/s.P.Balamurugan,
Advocate.

For Respondent : Mr.V.Neelakandam,
Additional Public Prosecutor.

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

PRAYER :-

For Anticipatory Bail in Crime No. 22 of 2019 on the file of the respondent Police.

ORDER : The Court Made the following order :-

The learned counsel for the petitioner has filed a memo stating that he has omitted to mention Section 409 I.P.C along with other sections in this petition. Hence, he prayed this Court to include 409 I.P.C along with other sections in this petition.

2.Considering the same, the said memo is recorded. The Registry is directed to make necessary amendments in this petition by including Section 409 I.P.C along with other sections in this regard.



3.The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 409, 420, 294(b), 506(ii) and 120(B) of IPC in Crime No.22 of 2019, seeks anticipatory bail.

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4.The learned counsel appearing for the petitioner has submitted that the petitioner is a differently abled person and he was appointed as agent for the Company Viz., Vision Club and AFC which belongs to the accused No.3. He further submitted that the petitioner herein also invested a sum of Rs.8,50,000/- in pursuance of the announcement made by A-1. Subsequently, A-1 and A-3 did not repay the amount. Hence, the petitioner had lodged a complaint to the Director General of Police on 10.06.2019 and Inspector of Police, Sivagangai on 20.06.2019 and Superintendent of Police, Sivagangai on 22.06.2019. But sofar, no action has been taken on the said complaint. He further submitted that even as per the F.I.R, a sum of Rs.70,000,00/- was paid to the Bank accounts of the Company namely Vision Club and AFC. He further submitted that the defacto complainant has stated that a sum of Rs.25,00,000/- was paid in cash by the petitioner to A-1 directly and there is no proof for the same and only for the purpose of the case, the said allegation has been made. He further submitted that even in the F.I.R, A-1 gave an undertaking that he would pay the amount. But no such undertaking was given by the petitioner. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Additional Public Prosecutor appearing for the respondent has submitted that the petitioner and A-1 were working as agents under A-3 and they have made publicity and lured the public to invest the money by giving false promise that if any amount is deposited, double the amount will be returned within 100 days. Believing the said publicity, the defacto complainant had collected amount from several investors and deposited the same with the Company and also with the petitioner and A-1. He further submitted that total investment is Rs.95 lakhs. Investigation is still pending. Hence, he strongly opposed this petition. However, he fairly conceded that A-3 was arrested and remanded to judicial custody and nothing was recovered from him.

6.In the FIR, it is stated that the defacto complainant has collected amount from public and paid a sum of Rs.70 lakhs to the bank account of the Company. So, even as per F.I.R, Rs.70 laks was paid only to the account of the bank and not to the petitioner. Further, the defacto complainant has stated that a sum of Rs.25,00,000/- was paid in cash to the petitioner and A-1 directly, but he has not produced any proof for the same.

7.Taking into consideration of the aforesaid facts, also the fact that though the petitioner has already sent complaints to the Director General of Police, Inspector of Police and Superintendent of Police, sofar, no action has been taken and also the fact that



already A-3 was arrested and remanded to judicial custody and nothing was recovered from him, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

8. 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Sivangangai District on condition that the petitioner 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] If the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent Police daily at 10.00 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
26/07/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
SIVANGANGAI DISTRICT



2.-DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
SIVAGANGAI, SIVAGANGAI DISTRICT.

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

+1. CC to M/S.P.BALAMURUGAN Advocate SR.No.11879

ORDER

IN

CRL OP (MD) No.9304 of 2019

Date :26/07/2019

VS

ES/VR/SAR 4/30.07.2019/4P/6C