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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18.02.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.714 of 2022

1.Desika Sankar
2.Shivaraman
3.Rajesh

... Petitioners/Accused
Nos.1 to 3

Vs

State rep.by
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari,
Kanyakumari District.
(Crime No.109 of 2021)

... Respondent/Complainant

For Petitioners: M/s.M.Sahul Hameed, Advocate.

For Respondent : M/s.R.Sivakumar,
Government Advocate (Crl. side)

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

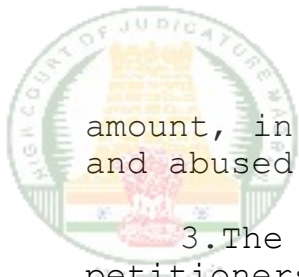
PRAYER :-

For Anticipatory Bail in Crime No.109 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 323 and 506(1) IPC, in Crime No.109 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner has borrowed a sum of Rs.15 Lakhs from Sriram City Union Finance Company and the last date for due repayment of the said amount is on 10.04.2015, but the first petitioner did not pay the amount within that time and that the defacto complainant, who is an employee of the said company, approached the defacto complainant to pay the



amount, in which, the petitioners and other accused had attacked him and abused him in filthy language. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution.

4.The learned Government Advocate (Criminal Side) would submit that the injured was already discharged from the hospital and that the case in counter is pending in Crime No.108 of 2021.

5.Considering the fact that there existed money transaction dispute between the parties and also the facts that the injured was already discharged from the hospital, that except the offence under Section 506(1) IPC, all other offences are bailable in nature and that the case in counter is pending against the defacto complainant in Crime No.108 of 2021, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of thirty (30) days and thereafter, as and when required for interrogation;

(c)the petitioners shall not tamper with the evidence or witness either during investigation or trial;

(d)the petitioners shall not abscond 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**; and;



(f) if the accused / petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Sd/-
18/02/2022

/ /2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.I,
NAGERCOIL, KANYAKUMARI DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.714 of 2022
Date :18/02/2022