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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12.04.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD).No.1086 of 2022

I.Chezhiyan

...Petitioners/Sole Accused

Vs.

State rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District,
Ramanathapuram.
(Crime No.40 of 2021)

...Respondent/Complainant

For Petitioner : Mr.S.Sarvagan Prabhu Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

For Intervenor : Mr.R.Srinivasan, Advocate

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

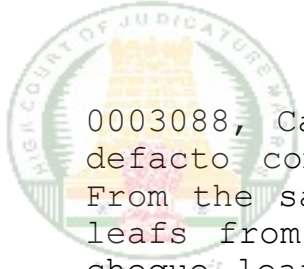
PRAYER :-

For Anticipatory Bail in Crime No.40 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 409 and 420 IPC., in Crime No.40 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is running an Electronics Shop at Ramanathapuram. The defacto complainant opened an account (A/C.No.3088261000022 IFSC, CNRB



0003088, Canara Bank, Thondi) on 22.06.2018. On the same day, the defacto complainant was issued with cheque book having 25 leafs. From the said 25 leafs, the petitioner received two unfilled cheque leafs from the defacto complainant. The petitioner used those two cheque leafs by filling up a sum of Rs.9,75,000/- & Rs.25,00,000/- respectively and utilized for his own purpose and cheated the defacto complainant. The petitioner misused his official capacity by stopping the SMS link to the mobile phone of the defacto complainant about the withdrawal of the alleged amount sanctioned. Later, the petitioner informed the defacto complainant about the sanction of Rs.4,50,000/- as if the same was withdrawn by the defacto complainant and he repaid the same between 22.10.2018 to 19.06.2020. But the defacto complainant realized that some irregularity has been committed in his bank account and he came to know that the petitioner cheated him to a tune of Rs.34,75,000/-. While so, the petitioner promised to settle the issue. Hence, the defacto complainant did not precipitate the issue. Whereas the petitioner repaid the cheated amount only to the tune of Rs.4,25,020/-. When the defacto complainant demanded to settle the remaining amount, the petitioner refused to do so and threatened him with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution.

4.The learned counsel for the defacto complainant submitted that the petitioner had cheated the de-facto complainant and refused to settle the amount and also threatened him with dire consequences.

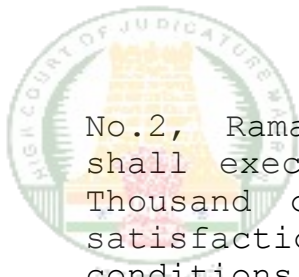
5.When the matter is taken up for hearing today, the learned counsel for the petitioner has filed an undertaking affidavit sworn by the petitioner, wherein, he has specifically given an undertaking that he is ready to deposit a sum of Rs.4,50,000/- before the Canara Bank, Thondi, Ramanathapuram.

6.Considering the nature of the offence alleged and also taking note of the undertaking affidavit given by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner shall deposit a sum of Rs.4,50,000/- (Rupees Four lakhs fifty Thousand only) before the Canara Bank, Thondi, Ramanathapuram, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate No.2, Ramanathapuram District.

8.On production of such receipt/acknowledgment, 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

<https://hcservices.ecourts.gov.in/hcservices/>



No.2, Ramanathapuram District, 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 learned Magistrate concerned and on further conditions that:

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[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall report before respondent police daily at 10.30 a.m., for a period of one month and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[d] the petitioner 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 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 229-A IPC.

Sd/-
12/04/2022

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

vsd

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.



1. THE JUDICIAL MAGISTRATE NO.2,
RAMANATHAPURAM DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT,
RAMANATHAPURAM.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.1086 of 2022
Date :12/04/2022

SP/SVR/SAR I/22/04/2022/4P/5C