



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/03/2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.4037 of 2022

P.Murugan

... Petitioner/Accused No.3

Vs

State Rep.by
The Inspector of Police,
Vatchakarapatti Police Station,
Virudhunagar District.
Cr.No.40/2021.

... Respondent/Complainant

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

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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/Accused No.3, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 465, 468 and 470 I.P.C., in Crime No.40 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that by promising to secure a job in 'Food Corporation of India' all the accused persons joined together and received a sum of Rs. 18 lakhs from the defacto complainant and thereafter, failed to secure the job and also failed to return the above said amount. Thereby, cheated the defacto complainant. Hence, the present complaint.

3.The learned Counsel for the petitioner would submit that the second accused has filed a petition seeking bail in Crl.O.P.(MD) No.18911 of 2021 and this Court while granting bail, has specifically observed as follows:



"5. Even as per the contents of the First Information Report, the petitioner was only the person present when the amount was handed over to the first accused. Neither the petitioner nor the other accused have no role in this issue. The issue is only between the first accused and the defacto complainant.

6. On perusing the entire CD file, it shows that even before the First Information Report, there was an agreement between one Balamurugan, who is the father of the defacto complainant. Wherein, it has been stating that the first accused has promised to return Rs.18 lakhs that was received from the defacto complainant in instalments. In that agreement, it appears that the the petitioner and the third accused signed as witness. Subsequent to that, it was not complied by the first accused. So, the First Information Report has been registered on 07.02.2021, stating that the petitioner was also present when the money was handed over to the first accused and the petitioner along with the third accused, received the same.

7. But, a reading of the above said agreement does not show that the petitioner was involved in the above said transaction between the defacto complainant and first accused.

4. The learned Counsel for the petitioner would further submit that the petitioner, who is an advocate, has nothing to do with the alleged occurrence and that the transaction existed between the first accused and the defacto complainant.

5. The learned Government Advocate (Crl.Side) appearing for the State would submit that the accused Nos.1 and A.2 were already granted bail by the Sessions Court as well as by this Court and the investigation is going on.

6. Considering the above facts and circumstances and also the facts that the petitioner is not having any bad antecedents and that the accused Nos.1 and A.2 were already granted bail by the Sessions Court as well as by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of his arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Virudhunagar, 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:



(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 Aadhar card or Bank pass Book to ensure their identity;

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

(c) the petitioner shall not tamper with 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 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
02/03/2022

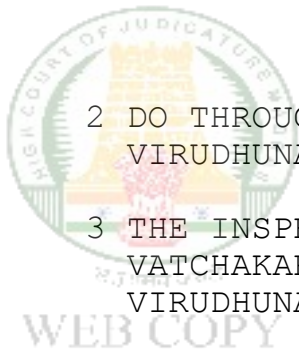
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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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,
VIRUDHUNAGAR DISTRICT.



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE
VATCHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.P.ATHIMOOLAPANDIAN, Advocate (SR-1674[I] dated
03/03/2022)

ORDER
IN
CRL OP(MD) No.4037 of 2022
Date :02/03/2022

RS/SBN/SAR.4(07.03.2022) 4P-6C