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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 29/03/2022

PRONOUNCED ON : 05/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.4701 of 2022

1. Josep @ Kumar,
2. Jayarani,
3. Corolin,
4. John, ... Petitioner/Accused 1 to 4

Vs

State Rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram,
Ramanathapuram District.
(Crime No.44/2021). ... Respondent/Complainant

K.Kasper ... Petitioner/Defacto Complainant

For Petitioner : M/s.S.Jayakumar,
Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)
For Intervenor : Mr.V.Karuna, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.44/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ Accused Nos.1 to 4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 294(b) and 506(ii) I.P.C., in Crime No.44 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners who are the members of the same family, by giving false promise to get employment in railway for the defacto complainant's son, had



received Rs.18,70,000/- and that without arranging for any job, had cheated the defacto complainant. Hence, the present complaint.

3. Admittedly the first petitioner is a retired army man, that the second petitioner is his wife and the petitioners 3 and 4 are the son and daughter of the petitioners 1 and 2. The petitioners' case is that the first petitioner borrowed money for her daughter's betrothal function and for construction of a house, that he had obtained hand loan, after execution of mortgage by way of deposit of title deeds, that the defacto complainant has never parted with money without proper security, that the defacto complainant by giving the complaint has converted the transaction of civil nature into a criminal case, that they are innocents and they have not committed any offence as alleged by the prosecution.

4. The case of the defacto complainant/intervenor is that the defacto complainant and the petitioners 1 to 4 were living in same village, that the accused had contacted the defacto complainant and promised to get job in the railway department for the sons of the defacto complainant's sons in ALP or Goods guard post, that the petitioners demanded Rs.20,00,000/-, that the defacto complainant believing the words of the petitioners, has transferred a sum of Rs.1,00,000/- to the third petitioner's SBI account on 16.02.2017 and on the same day, further Rs.1,00,000/- was transferred to the second petitioner's bank account, that on 07.03.2017, a sum of Rs.1,00,000/- was transferred to the first petitioner's friend's account, that thereafter, the defacto complainant got money from his relatives and gave Rs.2,70,000/-, that he sold his house site for Rs.13,00,000/- and gave it to them, all totally Rs.18,70,000/-, that the petitioners have subsequently in the year 2018, have directed the sons of the defacto complainant to apply for railway jobs through online, that thereafter they have proceeded to Aurangabad and had written examinations, but their names does not find place in the result, that when the amount was demanded, the first petitioner assured to return the entire amount of Rs.18,70,000/- within a period of three months, that since they have not repaid the amount, the defacto complainant had insisted them to pay the amount, that the petitioners have threatened the defacto complainant and his family members and that therefore, the defacto complainant was constrained to lodge the complaint. The defacto complainant has also produced the bank statements to show the transfer of amounts to the bank account of the petitioners.

5. The learned Counsel for the defacto complainant would submit that subsequently, the first accused has executed an undertaking deed on 01.07.2021 before the village elders admitting the receipt of Rs.18,70,000/- for arranging jobs and agreed to return the same within a period of three months and they have also produced the copy of the same.



6.No doubt, the petitioners have also produced a copy of the construction agreement and a copy of the betrothal invitation. As rightly contended by the learned Counsel for the defacto complainant, the petitioners, as usual, have been attempting to convert the job racketing into a money transaction dispute.

7.The learned Government Advocate (Crl.Side) appearing for the State would submit that it is a clear case of job racketing, that the first accused who is a retired army man along with his family members had received a sum of Rs.18,70,000/- to arrange a job in the railway department and subsequently refused to return the money.

8.Considering the seriousness and gravity of the offence alleged and also the quantum of amount involved and that the investigation is pending, this Court is not inclined to grant anticipatory bail to the petitioners at this point of time.

9.In the result, the Criminal Original Petition is dismissed.

sd/-

05/04/2022

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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 Inspector of Police,
District Crime Branch, Ramanathapuram,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.JEYAKUMAR, Advocate (SR-3041[I] dated 07/04/2022)

ORDER IN

CRL OP(MD) No.4701 of 2022

Date :05/04/2022

RS/VR/SAR.2 (12.04.2022) 3P-4C

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