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

Date : 15/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.10374 of 2022

Jayaseelan

... Petitioner/Accused

Vs

1. State rep.by

The Sub Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil,
Kanyakumari District.
(Crime No.73/2022)

... Respondent/Complainant

(*) 2. Mubarakk

... 2nd Respondent/Defacto
Complainant

(*) (R2-Suo Motu impleaded as per order
of this Hon'ble Court dated 29.06.2022
in Crl.O.P.(MD)NO.10374/2022 by GIJ)

For Petitioner : M/s.Elango H, Advocate.

For 1st Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.M.R.Sreenivasan, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.73 of 2022 on the file of
the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections 380
and 457 IPC in Cr.No.73 of 2022, seeks anticipatory bail.



2.The case of the prosecution is that the petitioner is the owner of a shopping complex, namely, Chella Nadar situated at Palpannai, Nagercoil, and in that complex. The defacto complainant is running a hotel under the name and style of Asbic Hotel for the past 1½ years and he was paying monthly rent, which was fixed at Rs.13,000/-. When the petitioner asked the defacto complainant to vacate the premises, the defacto complainant refused to vacate the premises. While so, some unknown persons had stolen Rs.13,000/- worth of articles from the defacto complainant's hotel, for which, the petitioner was arrayed as an accused.

3.On the side of the petitioner, it is stated that due to personal motive, a false case was foisted against the petitioner and the petitioner is innocent and he has not committed any offence as alleged by the prosecution and that the petitioner is ready to deposit the advance amount and prayed the petitioner to be released on anticipatory bail.

4.On the side of the intervenor, it is stated that the petitioner had broken the de-facto complainant's shop with the help of some unknown persons and has stolen the articles worth about Rs.13,000/- and prayed the petition to be dismissed.

5.On the side of the prosecution, it is stated that there was a dispute between the landlord and tenant and the stolen articles are not yet recovered and prayed the petition to be dismissed.

6.Considering the above facts and circumstances of the case and also considering the nature of the offence alleged, 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 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 Court No.II, Nagercoil, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 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 two weeks 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 be present before the Court on hearing dates and before the respondent police as and when required;

[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/-

15/09/2022

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/09/2022

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

SJI

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.II,
NAGERCOIL.
2. -DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL
3. THE SUB INSPECTOR OF POLICE,
NESAMONY NAGAR POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.ELANGO H Advocate SR.No.10062

+1. CC to M/S.M.R.SREENIVASAN Advocate SR.No.10198

ORDER

IN

CRL OP(MD) No.10374 of 2022

Date :15/09/2022