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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 08/09/2022
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.16173 of 2022

1. S.Mohandas
2. M.Rajeswari ... Petitioners/Accused Nos. 1 & 2

Vs

The State rep.by
The Inspector of Police,
Vadipatti Police Station,
Madurai District.
(Crime No. 209 of 2022). ... Respondent/Complainant

For Petitioners : M/s.MALAIKANI.S., Advocate

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

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

PRAYER :- For Anticipatory Bail in Crime No.209 of 2022 on the file of the respondent Police.
ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 352, 506(ii) I.P.C, in Crime No.209 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 30.04.2022, the accused persons approached the defacto complainant, to purchase three machines and the defacto complainant received the amount for the three machines. The defacto complainant returned the money for one machine, since he could not supply the same. However, there was dispute between the parties, with regard to the two machines, which were already supplied. Due to that enmity, on 05.07.2021, when the defacto complainant along with his party came to the petitioners' company, to fix the repair, the accused persons kept them inside the company and demanded to return back the money. Thereafter, the defacto complainant and his party were secured by the Police. Hence, the complaint.

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3.On the side of the petitioners, it is stated that ev or to the registration of this case, the petitioners gave a complaint against the defacto complainant in Crime No.6 of 2022, dated 02.02.2022, on the file of DCB, Madurai. In order to escape from the legal liabilities, a false case has been foisted against the petitioners by the defacto complainant. The defacto complainant, by accepting his liability has executed an undertaking affidavit on 17.11.2021. This complaint was lodged only as a counter blast to the earlier complaint given by the petitioners. Hence, prays to release the petitioners on anticipatory bail.

4.On the side of prosecution, it is stated that the first petitioner is having three previous cases at his credit and the second petitioner is not having any previous case. Further, it is stated that due to enmity in the business transaction, this complaint has been lodged against the petitioners and prayed to dismiss the petition.

5.Considering the previous antecedents of the first petitioner, this Court is not inclined to enlarge the first petitioner on bail. Accordingly, this Criminal Original Petition is dismissed, in respect of first petitioner.

6.Considering the nature of the offence and the business dispute between the parties, considering the fact that the second petitioner is not having any bad antecedents, this Court is inclined to grant anticipatory bail to the second petitioner alone.

7.Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned learned Judicial Magistrate, Vadipatti, on condition that the second 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a)the second 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;

(b)the second petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

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

(d)the second petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

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(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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];*** and;

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

sd/-
08/09/2022

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/09/2022

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

TO

1 THE JUDICIAL MAGISTRATE,
VADIPATTI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
VADIPATTI POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to M/S.MALAIKANI.S., Advocate SR.No.9843

ORDER
IN
CRL OP(MD) No.16173 of 2022
Date :08/09/2022

PNM
SA/SBN/SAR.4/13.09.2022/3P/6C

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