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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated :29/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.17192 of 2022

S.Mohandas

... Petitioners/Accused No.1

Vs.

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

... Respondent/Complainant

For Petitioner : 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.

3. On the side of the petitioners, it is stated that even prior 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. The earlier petition filed by the petitioner was dismissed only on the ground that there is some previous cases against the petitioner, whereas, there is no such previous case against the petitioner and prayed the petitioners to be released anticipatory bail.

4. On the side of prosecution, it is stated that due to enmity in the business transaction, this complaint has been lodged against the petitioners. It is further stated that during the hearing of the earlier bail petition, it was wrongly mentioned that the petitioner was having 3 previous cases, but, after verifying the records, it is found that the petitioner was not having any previous case on his credit. An affidavit to that effect was also filed on the file of the prosecution and prayed the petition to be dismissed.

5. Considering the facts and circumstances of the case and considering the fact that there is no previous case pending against the petitioner and considering the affidavit filed by the prosecution and also considering the fact that co-accused was already released on bail and that the prosecution has not taken any steps to arrest the petitioner so far, this Court is inclined to release the petitioner on anticipatory bail with certain conditions.

6. Accordingly, this Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Vadipatti, within a period of fifteen days from the date of receipt of a copy of this order, 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 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 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;

<https://www.mhc.tn.gov.in/judis>

(b) the petitioner shall report before the respondent police daily at 10.30 am until further orders;



(c) the petitioner shall not tamper with 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]**; and;

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

Sd/-

29/09/2022

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/10/2022

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

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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,
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.10779

ORDER

IN

CRL OP (MD) No.17192 of 2022

Date : 29/09/2022