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

Date : 12/10/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.17617 of 2022

P.Thiruthamilarasu

... Petitioner/Sole Accused

Vs.

State rep.by
The Sub-Inspector of Police,
ST Kulam, Kanyakumari District.
(in Crime No.135 of 2022).

... Respondent/Complainant

For Petitioner : M/s.C.Susikumar, 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.135 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ Accused Rank not known, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 506(i) and 379 of IPC, in Crime No.135 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner availed a loan from the Tamil Nadu mercantile Bank, Rajakamangalam Branch with collateral security of two properties. Since the petitioner failed to repay the same, the Bank filed a case before the Chief Judicial Magistrate, Nagercoil in Cr.M.P.No.2291 of 2020, for physical possession and an conditional order was passed in favour of the Bank. In the meanwhile, the petitioner has trespassed into the property and broke open the gate of the property which was in the possession of the bank. Hence,a complaint has been filed before the



Thenthamaraikulam police station in CSR No.293 of 2022 and a case in W.P.(MD)No.15593 of 2022 has been filed before this Court and this Court has passed an conditional order. The petitioner has complied the condition and hence the defacto complainant herein and one Ravichandran went to the petitioner's house to hand over the key of one of the property. At that time, the petitioner scolded them in filthy language and threatened them with dire consequences and snatched Rs.5,200/-. Hence the complaint.

3. On the side of the petitioner, it is stated that the petitioner has not committed any offence as alleged by the prosecution. He has been falsely implicated in this case. It was the defacto complainant who quarrelled with the petitioner and gave a false complaint. The petitioner is ready to deposit Rs.5,200/-, alleged to have been snatched away from the defacto complainant and prayed the petitioner to be released on anticipatory bail.

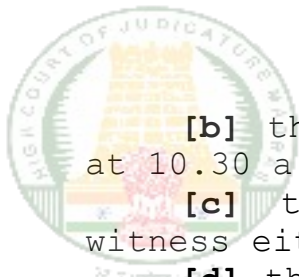
4. On the side of the prosecution, it is stated that the accused has attacked the defacto complainant and snatched money from him. The petitioner is having one previous case of similar nature and the case was ended in acquittal. This is the second anticipatory bail application. Earlier application filed by the petitioner in Crl.O.P.(MD)No.15329 of 2022, was dismissed by this Court, on 14.09.2022 and prayed the petition to be dismissed.

5. Considering the facts and circumstances of the case and considering the fact that the earlier case against the petitioner was ended in acquittal and also considering the fact that till now the respondent has not taken any steps to arrest the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, this petition is allowed and on condition that the petitioner shall pay a sum of Rs.5,200/- (Rupees Five Thousand Two Hundred only) to the credit of Crime No.135 of 2021 before the learned Judicial Magistrate No.III, Nagercoil, without prejudice to his rights and contentions before the trial Court and produce the receipt before the trial Court.

7. On production of such receipt, 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 No.III, 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., until further orders.

[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/-

12/10/2022

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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 NO.III
NAGERCOIL.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE SUB-INSPECTOR OF POLICE,
ST KULAM, KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.17617 of 2022

Date :12/10/2022