



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

Date : 13/10/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN
CRL OP(MD). No.17888 of 2022

WEB COPY

D.Balakrishnan,

... Petitioner/Accused No.3

Vs

State Rep by
The Sub Inspector of Police,
Thenkarai, Theni District.
Cr.No.355/2022.

... Respondent/Complainant

Narayanan

... Intervening Petitioner
in CRL MP(MD).12142 of 2022

For Petitioner : M/s.Shankar Ganesh R,
Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)
For Intervenor : Mr.R.Gandhi,
Advocate.

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No. 355/2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused No.3, who was arrested and remanded to judicial custody on 05.09.2022 for the offences punishable under Sections 381, 420 and 120(b) of IPC, in crime No.355 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant gave a sum of Rs.50 lakhs to the petitioner. After receiving the amount, he failed to hand over the same and cheated the defacto complaint. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that A1 is the driver of the petitioner. The petitioner is being owner of the vehicle, which was used for transporting the amount by A1 & A2, he was implicated in this case. Further, a sum of Rs.35 lakhs was recovered only from A1 & A2. and he is in judicial custody from 05.09.2022, hence he prays for grant of bail to the petitioner.



4.The learned counsel for the Intervenor would submit the petitioner is the master mind of the above said occurrence. He is the conspirator to the crime. Further, the amount involved in the occurrence is huge amount. Hence, he opposed to grant bail to the petitioner.

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5.The learned Government Advocate (Crl. side) would submit that totally 3 accused are involved in this case. The petitioner is arrayed as A3. 8 witnesses have been examined. A part of the amount i.e., Rs.35 lakhs was recovered from the accused and balance amount yet to be recovered. Further, 1 previous case is pending against the petitioner. Hence, he strongly opposed to grant bail to the petitioner.

6.Considering the period of incarceration and also the considering the fact that a part of the amount was recovered, this Court is inclined to grant bail to the petitioner on certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on executing 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 Judicial Magistrate, Periyakulam, Theni District.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iii)the petitioner shall not tamper with evidence or witness;

iv)the petitioner shall not abscond during trial.

v)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].

sd/-
13/10/2022

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/10/2022

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

DSS



TO

1. The Judicial Magistrate,
Periyakulam, Theni District.
2. Do-Through The Chief Judicial Magistrate,
Theni District.
3. The Officer Incharge,
Sub Jail, Periyakulam, Theni District.
4. The Sub Inspector of Police,
Thenkarai, Theni District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-11354[I] dated
13/10/2022)

ORDER IN
CRL OP(MD) No.17888 of 2022
Date : 13/10/2022

TR/SKN(13.10.2022) 3P 7C