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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.18558 of 2022

Alampathoosha, ... Petitioner/Accused Rank Not Known

Vs

State Rep.by
The Inspector of Police,
Pavoorchathiram Police Station,
Cr.No.116/2022,
Tenkasi District.. ... Respondent/Complainant

For Petitioner : M/s.Susi Kumar C,Advocate.

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

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

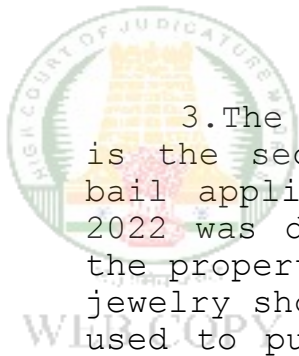
PRAYER :-

For Anticipatory Bail in Crime No. 116/22 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 380 of IPC, in Cr.No.116 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that on 09.04.2022 when the defacto complainant's brother-in-law went to the defacto complainant's house to take a bike key, he found that the main door of the house was opened. Hence, he informed the same to the defacto complainant. Upon the information, the defacto complainant went to his house and found that the main door and almera were opened and the gold jewels of 269 grams were stolen, worth about Rs.4,84,00/-. Hence, the present complaint.



3.The learned counsel for the petitioner would submit that this is the second anticipatory bail application. Earlier anticipatory bail application filed by the petitioner in Crl.OP(MD)No.13852 of 2022 was dismissed by this Court on 28.09.2022 on the ground that the property has not yet been recovered. The petitioner is running a jewelry shop in the name and style of "Afra Jewelry". The petitioner used to purchase the auctioned jewels from the bank by depositing amount. The petitioner did not receive any stolen jewels. Based on the confession statement of the first accused, the petitioner has been implicated in this case and the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that A2 was arrested and released on bail and no previous case is pending against the petitioner. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) appearing for the respondent police would submit that totally 3 accused are involved in this case. The petitioner was arrayed as A3. A1 & A2 were arrested. A1 is still in custody and A2 was released on bail. No previous case is pending against the petitioner. 9 witnesses have been examined. A portion of the property was recovered. However, remaining property yet to be recovered. Hence, he strongly opposed for grant of anticipatory bail to the petitioner.

5.Considering the facts and circumstances of the case and also considering the facts that 9 witnesses have been examined, a portion of the property was recovered, the co-accused was released on bail, and no bad antecedent is reported against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the 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 The Judicial Magistrate, Tenkasi, 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;

(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
<https://www.mca.gov.in/> during investigation or trial;



(d) the petitioner shall not abscond either during investigation or trial;

(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/-
15/11/2022

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/11/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE
TENKASI.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION,
TENKASI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.18558 of 2022
Date :15/11/2022

DSS
PKP/BUC/SAR-2/25.11.2022/3P/5C