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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/11/2022

PRESENT

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

CRL OP(MD). No.18985 of 2022

Arivalagan

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
Varusanadu Police Station,
Theni District
(Crime No.86/2022).

... Respondent/Complainant

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

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

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

PRAYER :-

For Anticipatory Bail in Crime No.86/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 294(b) and 506(i) IPC, in Crime No.86 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is own brother of the de-facto complainant's husband and the de-facto complainant has purchased a JCB bearing Registration No.TN-60-AA-0897 by getting a sum of Rs.18,00,000/- as loan from the Sri Ram Transport Finance Company. Subsequently, the petitioner has entered into an agreement with the de-facto complainant and taken the JCB by assuring that he will repay the amount to the finance company. Thereafter, the de-facto complainant received notice from the finance company by indicating that she has to pay Rs.29,00,000/- and at that time, she came to know that the petitioner has not paid the amounts to the finance company. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioner has paid a sum of Rs.1,00,000/- to the de-facto complainant and taken the JCB on 06.04.2019. Thereafter, due to Covid-19 pandemic situation, he was not able to pay the installments to the finance company. He would further submit that the petitioner is ready to pay the loan amount and he has also filed an undertaking affidavit to that effect. Hence, he prays for anticipatory bail.

4.The learned Government Advocate(Crl.Side) would submit that this is the petitioner's second anticipatory bail application and the earlier application was dismissed by this Court, dated 30.09.2022 in Crl.O.P.(MD)No.11402 of 2022. He would further submit that the petitioner has taken the JCB from the de-facto complainant on promising to pay the instalments on behalf of her to the finance company and thereafter, he failed to do so and the investigation is still pending. Hence, he strongly opposed to grant anticipatory bail.

5.Considering the above facts and circumstances and also taking note of the undertaking affidavit given by 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 Judicial Magistrate, Aundipatti, 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 either 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 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/-
02/11/2022

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/11/2022

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

SJI

TO

1. THE JUDICIAL MAGISTRATE, AUNDIPATTI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.
3. THE INSPECTOR OF POLICE,
VARUSANADU POLICE STATION,
THENI DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.18985 of 2022
Date : 02/11/2022

RK/BUC/SAR-4 (10/11/2022) 3P/5C