BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.12.2022
PRESENT
THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P(MD)No.22201 of 2022

Kannan ...Petitioner / Accused No.2

-vs-

The State represented by
The Inspector of Police,
Town North Police Station,
Dindigul District.
(in Crime No.426 of 2022) ...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.426 of 2022.

For Petitioner : Mr.V.Karuna, Advocate.

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 406, 417 and 420 IPC in Crime No.426 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the first accused had approached the de-facto complainant and she had also introduced the petitioner stating that the petitioner is her husband and working as Clerk in the Commercial Taxes Department and both of them have promised to arrange a loan with subsidy from District Industrial Centre, Dindigul to purchase sewing machines and thereby, the de-facto complainant had given a sum of Rs.30,000/- to the first accused and based on that, the de-facto complainant has also sent loan application with Canara Bank, Kannivadi Branch, Dindigul, and thereafter, Canara Bank had issued Rs.5,00,000/- in favour of the first accused. The first accused after receiving the amount of Rs.5,00,000/-, did not delivery sewing machines and cheated the de-facto complainant and the de-facto complainant was made liable for the amount of Rs.5,00,000/- by the bank. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that the petitioner is working as a Clerk in the DCTO Sales Tax Office, Nilakottai and the petitioner's wife was running an individual business for arranging loan for persons. The petitioner's wife had arranged loan along with subsidy for the de-facto complainant and the petitioner's wife has also supplied 15 sewing machines and tables necessary for running a tailoring centre. Subsequently, there was a dispute with regard to the non payment of the subsidy amount, thereby, the de-facto complainant had given a false complaint against the petitioner and his wife. He would submit that the petitioner has no role in the case and he has been falsely implicated in this case. Since the petitioner is a Government servant, the respondent Police are attempting to recover money by force under the threat of arrest.

4.He would further submit that the petitioner's wife was arrested and she has been released on bail and an amount of Rs.3,00,000/- has been repaid to the de-facto complainant. He would also submit that during the course of investigation, the respondent Police have also recovered 15 sewing machines from the petitioner's wife. He would reiterate that the petitioner, who has no role to play, has been implicated, since he is a Government servant and he is ready to abide by any stringent conditions that may be imposed on him. He would also submit that the earlier application for anticipatory bail in Crl.O.P(MD)No.17265 of 2022 was dismissed on 28.09.2022 on the ground that the investigation is not yet completed and the investigation is on the nascent stage. He would further submit that now the major part of the investigation has been completed and the machines have also been recovered from the petitioner's wife.

5.The learned Government Advocate (Crl.side) would submit that the petitioner along with his wife, A1, have induced the de-facto complainant on the promise of arranging loan and they have taken Rs.30,000/- from the de-facto complainant. Subsequently, the bank has also sanctioned a loan of Rs.5,00,000/- in favour of the de-facto complainant and DD was sent to the company owned by the wife of the petitioner, who is A1 in this case. Later, the accused had cheated the de-facto complainant. However, he would submit that a sum of Rs.3,00,000/- has been re-paid and he would oppose for grant of anticipatory bail.

6.Head the learned Counsel. Taking into consideration the facts and submission and on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, Dindigul, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousands only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 deposit a sum of Rs.1,00,000/- to the credit of Cr.No.426 of 2022 before the Court concerned.

[c] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].**

[g]If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
16/12/2022

/ TRUE COPY /

/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1 THE JUDICIAL MAGISTRATE NO.II
DINDIGUL.

2 THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE
TOWN NORTH POLICE STATION, DINDIGUL DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.22201 of 2022
Date :16/12/2022

cmr
MK/SSS/SAR 1/22.12.2022/3P/5C