



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

Date : 15/12/2022

PRESENT

**The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA**

CRL OP(MD). No.19910 of 2022

1. A.Girija,  
2. Alagarsamy,

... Petitioners/Accused Nos.1 & 2

**Vs**

The State rep.by  
The Inspector of Police,  
Economic Offence Wing,  
Theni District.  
Crime No.02/2022.

... Respondent/Complainant

S.Rani

... Petitioner/Intervener  
In CrI.MP(MD).14179/2022  
in CrI.OP(MD).19910/2022

For Petitioner : M/s.Jeyachandran V,Advocate.  
For Respondent : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor  
For Intervenor : Mr.D.Venkatesh, Advocate

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

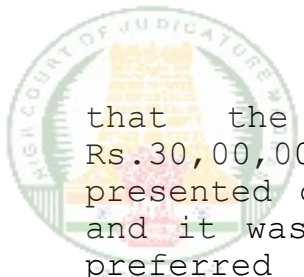
**PRAYER :-** For Anticipatory Bail in Cr No.02/2022 on the file of the respondent police.

**ORDER :** The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 420 IPC r/w. Section 4(1), 76(1) of Chit Funds Act, 1982 in Crime No. 02 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the De-Facto Complainant, is that the accused are known to her and that the accused conducted un-registered chit and believing that she had subscribed 30 chits and paid total sum of Rs.45,46,000/- and during the course of transaction, the accused had received 30 cheques, 30 pro notes from her as security and after the completion of the chit, the accused had failed to pay the matured amount and had cheated the defacto complainant. Hence, the complaint.

3.The learned Counsel for the Petitioners would submit that the Petitioners are innocent and they have been falsely implicated in this case. He further submitted that the defacto complainant had borrowed a sum of Rs.30,00,000/- towards securing for the debt and



that the defacto complainant had issued one cheque for Rs.30,00,000/- and pro note for the amount. The petitioners had presented cheque for collection through the account at Coimbatore and it was returned as dis-honoured, thereby, the petitioners had preferred a complaint against the defacto complainant. He would further submit that the defacto complainant had borrowed amount from 19 persons to the tune of Rs.41,00,000/- and she has repaid Rs.19,00,000/- and since she was unable to repay the balance amount she had filed a Insolvency Petition in I.P.No.27 of 2021 on the file of the Principal District Judge, Theni. He would further submit that though the defacto complainant had stated about handing over the cheque and pro note to the petitioners in the IP, she has not shown the petitioners as a party to the proceedings. He would further submit that even assuming that the petitioners are liable to pay any amount to the defacto complainant, there is no reason for the defacto complainant to issue cheques and pro notes to the petitioners. He further submitted that the defacto complainant had given a false complaint as a counter blast to the Section 138 of NI Act proceedings and in attempting to settle the dispute by the said fact remains in 138 proceedings by police action. The learned counsel would further submit that in order to prove their bonafides the petitioners are ready to deposit the original title deeds of immovable property to the value of Rs.30,00,000/- and thereby, he seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) would submit that the the petitioners have conducted un-registered chit and the defacto complainant joined 30 chits and so far paid Rs.45,00,000/- and that the accused have cheated and hence, he opposes to grant anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervenor submitted that the petitioners have induced the defacto complainant and the defacto complainant being the neighbour have subscribed 30 chits and has paid Rs.45,46,000/- and they have cheated the defacto complainant and thereby, he opposes to grant anticipatory bail to the petitioners.

6.Heard the learned counsels appearing on either side and the perused the materials available on record. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate, Theni District**, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 ant. bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall jointly deposit the original title deeds of immovable property worth about Rs.30,00,000/- belonging to them or other friends or relatives without prejudice to their rights and contentions before the trial Court;

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.

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

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

15/12/2022

/ TRUE COPY /

/12/2022

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

TRP

TO

1 THE JUDICIAL MAGISTRATE, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

3 THE INSPECTOR OF POLICE,  
ECONOMIC OFFENCE WING, THENI DISTRICT.

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

+1. CC to M/S.JEYACHANDRAN V Advocate SR.No.14990

+1. CC to M/S.D.VENKATESH, Advocate SR.No.14966

**ORDER IN**

CRL OP(MD) No.19910 of 2022

Date :15/12/2022

SA/MMS/SAR.2/26.12.2022/3P/7C

<https://www.mhc.tn.gov.in/judis>