



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/11/2022

WEB COPY

PRESENT

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

CRL OP(MD). No.20703 of 2022

C.R.Kuppuswamy

... Petitioner/Accused No.2

Vs

State rep.by
The Inspector of Police,
Taluk Police Station,
Dindigul,
Dindigul District.
(Crime No.684 of 2022).

... Respondent/Complainant

For Petitioner : M/s.PALA.Ramasamy, Advocate.

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

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

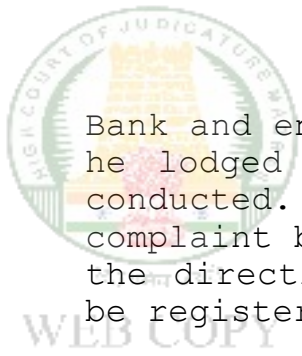
PRAYER :-

For Anticipatory Bail in Crime No.684 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 409, 417 and 420 of IPC, in Cr.No.684 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the then Assistant General Manager of Bank of Baroda, at Zonal Office in Chennai, which controls 6 Regional Offices in Tamil Nadu. The defacto complainant is having account in the above said Bank. On 11.09.2020, the defacto complainant received a SMS of Rs.2,32,365/- was debited from his account. On seeing the same, he went to the



Bank and enquired about the same. But, there was no response. Hence, he lodged a complaint. On his complaint, preliminary enquiry was conducted. Thereafter, since no response, he filed a private complaint before the learned Judicial Magistrate-I, Dindigul. As per the direction of the learned Magistrate, present complaint came to be registered by the respondent police.

3.The learned counsel for the petitioner would submit that the defacto complainant is having account in Bank of Baroda. The Bank has received a garnishee order dated 10.09.2020, vide proceedings in Na.Ka.864/2020/A3, from the Assistant Commissioner of Sales Tax Department, Dindigul along with Form-U under Rule 9(4) for recovery of Rs.2,32,365/- from the A/c.25460100010796 of the defacto complainant. Immediately, the bank informed the same to the defacto complainant. The defacto complainant went to the Bank and perused the content of the garnishee order and agreed for debit the same. Since, there was sufficient credit balance of Rs.8,25,274.42, the amount of Rs.2,32,365/- was debited and transferred to the account of CTO by Banker's Cheque bearing No.748733. At the request of the defacto complainant, the balance amount of Rs.5,90,000/- was allowed to withdraw by the defacto complainant through his self cheque bearing No.010796 by Leaving minimum balance of Rs.2,909/- in the account. A copy of the above said cheque was enclosed with the typed set of papers. The defacto complainant is having well knowledge about the transfer of Rs.2,32,365/- to the account of CTO. He would further submit that the petitioner is the then Assistant General Manager of Bank of Baroda, at Zonal Office in Chennai, which controls 6 Regional Offices in Tamil Nadu. The role of the petitioner is redressing the customer grievances ventilated from the customers of various branches. The petitioner has no nexus with the day-to-day affairs of the branches including the branch at Dindigul. Hence, there is no fault on the side of the petitioner. Further, A1 was already granted anticipatory bail by this Court in CrI.OP(MD) No.20476 of 2022, dated 18.11.2022. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (CrI.Side) would submit that the defacto complainant is running a business in the name of 'GRT Grant Granites Private Limited, Dindigul'. He has to pay arrears tax amount of Rs.93,216/- for the assessment year 2011-2012 and Rs.1,39,145/- for the assessment year 2012 - 2013. Totally, the defacto complainant has to pay tax amount of Rs.2,32,365/-. As per the garnishee order dated 10.09.2020, vide proceedings in Na.Ka.864/2020/A3, from the Assistant Commissioner of Sales Tax Department, Dindigul, the above said amount was debited from the account of the defacto complainant. He has also admitted the submission made by the learned counsel for the petitioner and would submit that there is no fault on the side of the petitioner and A1 was already granted anticipatory bail by this Court.

5.Considering the facts and circumstances of the case and also considering the fact that the co-accused was already granted



anticipatory bail by this Court, 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 No.I, Dindigul, 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 **as and when required for interrogation;**

(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 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/-

28/11/2022

/ TRUE COPY /

/12/2022

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

DSS

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



TO

1. THE JUDICIAL MAGISTRATE NO.I,
DINDIGUL.
2. -DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
DINDUGAL DISTRICT.
3. THE INSPECTOR OF POLICE,
TALUK POLICE STATION, DINDIGUL,
DINDIGUL DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.PALA.RAMASAMY Advocate SR.No.13855

ORDER
IN
CRL OP (MD) No.20703 of 2022
Date :28/11/2022

SP/BUC/SAR IV/07/12/2022/4P/6C