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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/11/2022

PRESENT

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

CRL OP (MD) . No.20832 of 2022

P.Velusamy

... Petitioner/Accused
Rank Not Known

Vs

State rep.by
The Inspector of Police,
Elumalai Police Station,
Madurai District.
(Crime No.217/2022).

... Respondent/Complainant

For Petitioner : M/s.Thanushiya N, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.217/2022 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 offences punishable under Sections 380 of IPC, in Crime No.217 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that on 31.10.2022, at about 04.44 p.m, the defacto complainant received a message that Rs.10,000/- was withdrawn from his Karur Vysya Bank account. Immediately, he went to his shop and enquired his wife. They found that the Wallet, which contained 3 ATM cards were missed. In the mean while, Rs.32,000/- was also withdrawn from the Indian Bank Account, Usilampatti Branch by using the defacto complainant's ATM Card. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the co-accused was arrested and later released on bail. Further, Rs.21,000/- was recovered from the A2. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that totally 2 accused are involved in this case. The petitioner was arrayed as A1. A2 was arrested and later, released on bail. Out of Rs.42,000/-, Rs.21,000/- was recovered from A2. The investigation in this case is not yet completed. Hence, he strongly opposed to grant anticipatory bail.

5.Considering the facts and circumstances of the case and also considering the fact that the co-accused was released on bail and a part of the amount was recovered from A1, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner shall pay a sum of **Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.217 of 2022** without prejudice to his rights and contentions before the trial Court.

7.On production of such receipt, 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 of receipt of a copy of this order, before the learned Judicial Magistrate Court II, Usilampatti, Theni, District 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 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 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.

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Sd/-
24/11/2022

/ TRUE COPY /

/12/2022

Sub-Assistant Registrar (C.S.I)
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 concerned.

TO

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

+1. CC to M/S.THANUSHIYA N Advocate SR.No.13675

ORDER
IN
CRL OP(MD) No.20832 of 2022
Date :24/11/2022