



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 15/12/2022
PRESENT

WEB COPY

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

CRL OP(MD) . No.21933 of 2022

1.Mariselvam

2.Palani

... Petitioner/Accused Nos.2 & 3

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.
Cr.No.26/2022.

... Respondent/Complainant

For Petitioner : M/s.Prabha.S,
Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No.26/2022 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 408, 420 and 120(b) IPC in Crime No.26 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, who is the Proprietor of Marutham Bankers, is that the first accused had joined in his company 18 months back and he was entrusted with the job of collecting amounts from the customers and the first accused had not been doing the work properly and when he had questioned, he had not properly answered and on verification of records, it was found that the first accused had misappropriated the collected amounts from the customers and cheated the de-facto complainant to the tune of Rs.31,81,150/-. The de-facto complainant requested the respondent police to enquire the wife of the first accused, Mariselvam/A2 and his uncle Palani/A3 and to recover the amounts. Hence, the case.



3.The learned counsel for the petitioners would submit that the petitioners are respectively, the wife and uncle of the main accused. He would further submit that the allegations are only in respect of the main accused and even as per the First Information Report, the de-facto complainant had requested the respondent to enquire the petitioners and to recover the money. He would further submit that the petitioners have nothing to do with the criminal act done by the first accused and they cannot be held responsible for the amount and they have not fabricated documents and they have not collected any money from the customers and the de-facto complainant. He would further submit that A1 has already been arrested and still in custody. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. side) would submit that the petitioners are respectively the wife and uncle of A1. He would further submit that they are not employees of the de-facto complainant. However, considering the gravity of offence, he strongly opposed to grant anticipatory bail to the petitioners.

5.Heard. Perused the materials available on record including the FIR. As per the FIR, the allegations are only against the first accused, who is stated to be an employee of the de-facto complainant who had misappropriated the amount and even further reading of the FIR shows that the de-facto complainant had only requested the respondent to enquire the petitioners and to recover the amount.

6.Taking into consideration the facts and the submissions, 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 No.II, Virudhunagar, 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 learned Magistrate concerned 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 report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders.

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



[d] the petitioners 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 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]**.

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

sd/-

15/12/2022

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/12/2022

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

SJI

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
VIRUHUNAGAR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S. PRABHA.S Advocate SR.No.14998

ORDER

IN

CRL OP(MD) No.21933 of 2022

Date :15/12/2022

SA/VR/SAR.3/26.12.2022/3P/6C