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

Date : 14/12/2022

PRESENT

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

CRL OP (MD) . No.22052 of 2022

Thiyagarajan

... Petitioner/Sole Accused

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Theni,
Theni District.
(Crime No.11 of 2020).

... Respondent/Complainant

For Petitioner : M/s.Mohan.A, Advocate

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

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

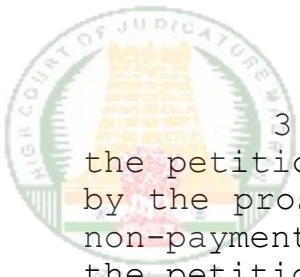
PRAYER :-

For Anticipatory Bail in Crime No.11 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 465, 468, 471, 408 of I.P.C, in Crime No.11 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the accused persons have received a huge sum of money from the defacto complainant and other financiers by pledging cardamom crop receipts and that they have later defaulted in discharging the liability. Hence, the complainant.



3.(i)The learned counsel for the petitioner submitted that the petitioner is innocent and not committed any offence, as alleged by the prosecution. On account of financial dispute, in respect of non-payment of dues for cardamom supply has been projected, as if, the petitioner has misappropriated fund.

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(ii)The respondent Police has registered two cases in Crime Nos.10 of 2020 and 11 of 2020. In Crime No.10 of 2020, the petitioner was arrested and he has been enlarged on bail, as per order of this Court in CrI.OP(MD)No.21634 of 2022, dated 07.12.2022 and the co-accused also got anticipatory bail in CrI.OP(MD)No.15702 of 2020, dated 11.06.2021. While the petitioner was in custody in Crime No.10 of 2020, the respondent did not take steps to formally arrest the petitioner in this case, though they were aware that the petitioner is involved in this case. Hence, prays to release the petitioner on anticipatory bail.

4.The learned Government Advocate (CrI.Side) submitted that the petitioner along with other accused had cheated the defacto complainant and investigation is pending. Considering the gravity of the offence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the FIR in Crime Nos.10 and 11 of 2020, on the file of the respondent Police.

6.Taking into consideration the facts and circumstances of the case and considering the fact that though both cases were registered by the respondent Police on the same day, they arrested the petitioner only in Crime No.10 of 2020 and failed to take steps to arrest the petitioner in this case (ie., in Crime No.11 of 2020) and the fact that the petitioner was also enlarged on bail by this Court in Crime No.10 of 2020, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and 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, Theni**, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand 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 report before the respondent Police everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10:30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

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/12/2022

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

PNM

TO

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

+1. CC to M/S.MOHAN.A Advocate SR.No.14872

ORDER

IN

CRL OP(MD) No.22052 of 2022

Date :14/12/2022