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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 07/03/2023
PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP (MD) . Nos.461 and 1823 of 2023

Chitra

... Petitioner/Accused 1
in Crl.O.P (MD) No.461 of 2023

K.G.Mohanan @ Mohan

... Petitioner/Accused 2
in Crl.O.P (MD) No.1823 of 2023

Vs

The Inspector of Police,
District Crime Branch,
Theni.
(Crime No.04/2022).

... Respondent/Complainant
in Crl.O.P (MD) No.461 of 2023

1 The Inspector of Police,
District Crime Branch,
Theni.
(Crime No.04/2022).

... 1st Respondent/Complainant
in Crl.O.P (MD) No.1823 of 2023

2 P.Bagavathiraja

... 2nd Respondent/Defacto Complainant
in Crl.O.P (MD) No.1823 of 2023

1 Baghavathi Raja,

2 Johny Roy

3 Manoj Paul

4 T.S.T.Sivasubramani

5 P.Vinoth

6 Kurian Abraham

7 V.Sandeep Kumar

... Intervene Petitions/Proposed
Respondent No.2 to 8
In Crl.MP (MD) .1169/2023 in
Crl.OP (MD) .461/2023

For Petitioner : M/s.Vaigunth A.S.,
Advocate.

(In Crl.O.P (MD) No.461 of 2023)



For Petitioner : M/s.Niranjana S.Kumar,
Advocate.
(In Crl.O.P (MD) No.1823 of 2023)

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor
(In Both Petitions)

For Intervenor : M/s.M.JERIN MATHEW, Advocate
(In Crl.MP (MD) .1169/2023)

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

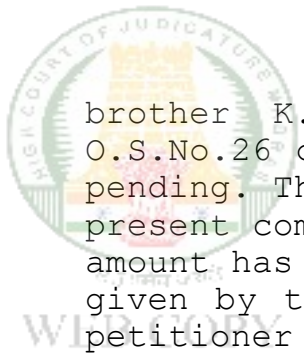
COMMON PRAYER :- For Anticipatory Bail in Crime No.4 of 2022 on the file of the Respondent Police.

COMMON 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 120(b) AND 420 of I.P.C., in Crime No. 4 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the retired Assistant General Manager in SEBI. After his retirement he decided to purchase and estate in Kerala. Therefore in the year 2019 the defacto complainant approached one Mr.Amal Varghesse and Alan vargesse who are the owners of the properties located in kerala and after negotiation the defacto complainant made an oral agreement with the owners to purchase the property for a sale amount of Rs.2,00,00,000/- and as an advance the defacto complainant made a part payment of Rs.92,00,000/-. The further case of the prosecution is that the defacto complainant after paying the advance payment the defacto complainant need bank loan for paying the rest of the amount. Later the defacto complainant through his friend Suresh approached the petitioners and explained about his requirement and the terms were clearly explained to the defacto complainant and on considering the conditions the petitioners started to arrange loan amount. It is the case of further prosecution that the petitioner after receiving a sum of Rs.24,90,000/- failed to obtain loan for the defacto complainant, hence the petitioners herein had cheated the defacto complainant to the tune of Rs.24,90,000/- hence the case.

3.The learned counsel for the petitioner in Crl.O.P(MD) No.461 of 2023 would submit that the except she being the wife of the first accused she has nothing to do with the crime as alleged by the prosecution. He would further submit that the entire allegation even as per the First Information Report is totally false. There was a wordy quarrel between the petitioner and the accused and she had lodged complaint for which CSR was also issued. Further one of the victim entered into agreement for sale with his brother and



brother K.G.Sivan filed a suit for specific performance in O.S.No.26 of 2021 before the Sub Court, Kattapana, Kerala which is pending. Therefore in order to escape from the present liability the present complaint has been lodged. Even according to the victim no amount has been received by the petitioner and no assurance has been given by the petitioner, therefore custodial interrogation of the petitioner may not be required, hence he seeks anticipatory bail.

4. The learned counsel for the petitioner in Crl.O.P(MD) No.1823 of 2023 would submit that the petitioner never received any amount from the petitioner and in order to escape from the clutches of law the present complaint has been filed, hence he seeks anticipatory bail.

5.The learned counsel for the intervenor would submit that the first accused is a retired Assistant General Manager in SEBI and he intended to purchase estate in Kerala and thereafter he had paid an advance of Rs.92,00,000/- and thereafter he has made an agreement to pay the balance amount. On believing his words the defacto complainant had paid a sum of Rs.24,90,000/- in order to avail further bank loan the petitioners have given assurance and thereafter cheated him. So far as another victim is concerned he intended to start quarry business and he approached the first accused to arrange loan. In order to avail loan he had paid a sum of Rs.33,65,000/- to the accused persons. Hence he objected to grant anticipatory bail to the petitioners.

6.It is seen that the victims have paid huge amounts as advance to the petitioners to avail loan. Further after receipt of the some amount from the victims the accused persons availed loan from the respective banks and failed to disburse the same to the applicants. Both the accused thereby swindled the amount of the victims and cheated them to the tune of Rs.1,47,57,000/-. There are nine victims in this case and the custodial interrogation of the petitioners is very much required in this case. Infact the first accused earlier file an anticipatory bail before this Court in 7695 of 2022 and the same was dismissed on 26.10.2022. Further the second accused in order to escape from the clutches of law she has lodged a complaint as against his own wife namely the first accused in this case and received CSR No.24 /2022 as if there was family dispute between them, therefore this Court is not inclined to grant anticipatory bail to the petitioners.

7. Hence these petitions stand dismissed.

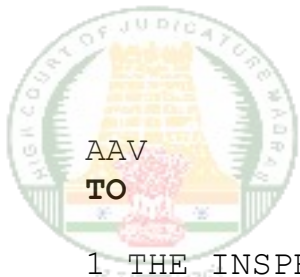
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07/03/2023

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/03/2023

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



AAV
TO

CRL OP (MD) . Nos. 461 and



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1 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI.

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

+2. CC to M/S.NIRANJAN S.KUMAR, Advocate SR.Nos.3569 & 3635 (I)

ORDER

IN

CRL OP (MD) . Nos.461 and
1823 of 2023

Date :07/03/2023

SA/MMS/SAR.1/16.03.2023/4P/5C