



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

Wednesday, the Fifteenth day of February Two Thousand and Twenty
Three

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PRESENT

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

CRL OP(MD) . No.2056 of 2023

1. Manzoor Asan @ Mansoor Asan

2. Thahira Sherin

... Petitioners/Accused No.1 & 2

Vs

State rep. by,
The Sub Inspector of Police,
S.S Colony Police Station,
Madurai City,
Madurai.

(Crime No.2414 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Prithiviraj.P.R,
Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

For Intervenor : Mr.M.Gurudas

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

PRAYER :-

For Anticipatory Bail in Crime No.2414 of 2022 on the file of
the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 & A2, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections of
I.P.C., in Crime No.2414 of 2022 on the file of the respondent
police, seek anticipatory bail.

2.The case of the prosecution, as per the defacto complainant
Shah Sikkander Badusha, is that the accused had induced him stating
that he would be able to get gold in public auction to be held by
the customs department and on the promise, the de-facto complainant
had given a sum of Rs.25,00,000/- to the accused and later, the
accused cheated the de-facto complainant. Hence, the case.



3. When the matter was taken up for hearing on 02.02.2023, the learned counsel for the petitioners submitted before this Court that the first petitioner had admittedly received an amount of Rs.21,00,000/- during the year 2018 and that he was ready and willing to repay the amount with interest, totalling to the tune of Rs.25,00,000/- by way of instalments within one year from today and to show his *bona fides*, he also undertook to pay a sum of Rs.5,00,000/- on or before 13.02.2023. On 13.02.2023, the first petitioner had paid an amount of Rs.5,00,000/- by way of two demand drafts, the defacto complainant had also acknowledged the same.

4. Today, the parties have also filed a joint compromise memo before this Court, wherein, the first petitioner had agreed to pay a balance amount of Rs.20,00,000/ by way of four instalments in the following manner:-

1. Rs.5,00,000/- on or before 30.08.2023
2. Rs.5,00,000/- on or before 30.11.2023
3. Rs.5,00,000/- on or before 30.01.2024
4. Rs.5,00,000/- on or before 25.02.2024

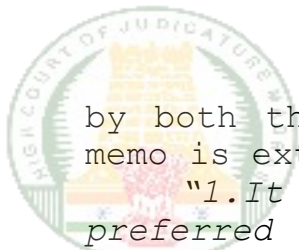
5. The learned counsel for the petitioners would submit that without prejudice to his defence, the first petitioner had accepted the liability and he has also agreed to repay the balance amount of Rs.20,00,000/- by way of four instalments on or before 25.02.2024 and both parties have also signed in the compromise memo and the same has also been produced before this Court. He would further submit that in the event of the petitioners not being able to comply with the said undertaking in the compromise memo, they have no objection in the anticipatory bail granted to the petitioners being cancelled.

6. The learned Government Advocate (Crl.side) would submit that based on the complaint given by the de-facto complainant that the petitioner along with his family members had cheated him to the tune of Rs.25,00,000/-, the case came to be registered. He would further submit that it is understood that the petitioners have also now compromised the matter.

7. The learned counsel for the intervenor would submit that the parties have entered into a compromise and they have also filed a joint compromise memo before this Court. He would further submit that he has no objection in grant of anticipatory bail to the petitioners on the first petitioner agreeing to comply with the undertaking given before this court.

8. Heard. Perused the materials available on record including the First Information Report as well the joint compromise memo filed by both the parties.

9. The defacto complainant had given a complaint of cheating against the petitioners. Now a joint compromise memo has been filed



by both the parties. The relevant portion of the joint compromise memo is extracted hereunder:

"1.It is submitted that on the strength of the complaint preferred by the intervenor/de-facto complainant herein, the respondent/complainant has filed a case in Crime No.2414 of 2022 for the alleged offences under Sections 420 and 506(i) of IPC, dated 22.12.2022.

2.It is submitted that the first petitioner has admitted his liability to repay the loan amount for a sum of Rs.21,00,000/- when he appeared before this Court on 02.02.2023 and he stated that he is duty bound to repay the same. Since there is a delay on his part to make the said repayment, he agreed to pay a sum of Rs.4,00,000/- in addition to the principal amount. Accordingly, to show his bona fide, he orally undertook before this Court to pay a sum of Rs.5,00,000/- on or before 13.02.2023. In compliance of his undertaking, when the matter came up for hearing before this Court on 13.02.2023, the first petitioner has paid a sum of Rs.5,00,000/- by way of two demand drafts drawn in the name of the de-facto complainant, ie., demand draft bearing No.156051 dated 10.02.2023 for a sum of Rs.4,00,000/- and D.D.No.156050 dated 10.02.2023 for a sum of Rs.1,00,000/- and the same has been received by the de-facto complainant. The first petitioner further undertake to pay the balance amount of Rs.20,00,000/- by four equated payments to the de-facto complainant at Chamber No.88, Madurai District Court on the dates scheduled hereunder;

- 1.Rs.5,00,000/- on or before 30.08.2023;
- 2.Rs.5,00,000/- on or before 30.11.2023;
- 3.Rs.5,00,000/- on or before 30.01.2024;
- 4.Rs.5,00,000/- on or before 25.02.2024."

10.Considering the facts and circumstances of the case and also considering the joint compromise memo filed by both the parties, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

11.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.V, Madurai, on condition that the petitioners shall execute a 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 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 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 as and when required for interrogation;

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

12.In the event of the petitioners not complying with the undertaking given even as per the compromise memo, the respondent/defacto complainant is entitled to file an application for cancellation of anticipatory bail.

13.The compromise memo filed by both the parties before this Court shall form part of the Court records. The respondent police shall not file the final report till the settlement of the entire amount.

sd/-

15/02/2023

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/02/2023

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

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TO

1. THE JUDICIAL MAGISTRATE NO.V, MADURAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE SUB INSPECTOR OF POLICE,
S.S COLONY POLICE STATION,
MADURAI CITY,
MADURAI.



CRL OP(MD).



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

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ORDER

IN

CRL OP (MD) No.2056 of 2023

Date :15/02/2023

NA/VS/SAR-2/23.02.2023/5P/5C