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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/01/2023

PRESENT

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

CRL OP(MD) . No.3842 of 2022

1. S.Kannaki
2. K.Shanmugam

... Petitioners/Accused No.1 & 2

Vs

State Rep.by
The Inspector of Police,
Thenkarai Police Station,
Theni District.
(Crime No.8 of 2022).

... Respondent

For Petitioners : M/s.Selvanayagam D, Advocate.
For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

PRAYER :-

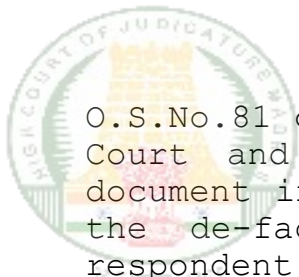
For Anticipatory Bail in Crime No.8 of 2022 on the file of the respondent Police.

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 465, 468, 471 and 420 I.P.C., in Crime No.8 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Valli, Head Clerk in the District Munsif Court, Periyakulam, is that the Advocate one Mariyappan has filed a suit on behalf of the petitioners/plaintiffs in O.S.No.81 of 2016 and the case was taken up for trial and the Judgment was delivered on 14.07.2021 and during verification, it was found that the petitioners/plaintiffs had filed a fabricated document in the Court and hence, the case.

3.The learned counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would further submit that the petitioners had filed a suit in



O.S.No.81 of 2016 and they have produced genuine document before the Court and they have not produced any fabricated or fraudulent document in the Court, whereas, a false complaint has been given by the de-facto complainant without following procedures are the respondent police has registered the present case. He would further submit that the petitioners have preferred an appeal against the Judgment and Decree passed in O.S.No.81 of 2016 and the appeal has been numbered as A.S.No.10 of 2022 and the same is pending on the file of the Sub Court, Periyakulam and only in order to defeat the rights of the appellant, a false complaint has been given at the instigation of the defendant, who has not given a complaint straightaway to the police. He would further submit that the entire case of the prosecution is borne out by documents. He would further submit that when the matter was listed before this Court on 02.08.2022, this Court finding that the appeal is pending, had directed the petitioners to produce the memorandum of appeal in A.S.No.10 of 2022 for considering this petition, pursuant to which, the petitioners have also filed the memorandum of appeal before this Court. Hence, he seeks for anticipatory bail.

4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that the petitioners are plaintiffs in O.S.No.81 of 2016 on the file of the District Munsif Court, Periyakulam, the Court had rendered Judgment and Decree on 14.07.2021 and during verification, it was found that the petitioners have produced fabricated and fraudulent documents before the Court and he would object for grant of anticipatory bail.

5.Heard. Perused the materials available on record including the First Information Report and the Judgments and Decree in O.S.No.81 of 2016 on the file of the District Munsif Judge, Periyakulam and A.S.No.10 of 2022 on the file of the Sub Court, Periyakulam.

6.Taking into consideration of the facts and circumstances of the case, 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, Periyakulam, Theni District, 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, daily 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 absconds, a fresh FIR can be registered under Section 229A IPC.

8.However, it is made clear that the observations are made by this Court only for deciding this application for anticipatory bail and they do not have any bearing in the civil proceedings pending between the parties.

sd/-

25/01/2023

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/02/2023

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

SJI

TO

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

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-1277[I] dated 27/01/2023)

ORDER IN

CRL OP(MD) No.3842 of 2022

Date :25/01/2023