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CRL OP(MD).



23

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

Date : 20/02/2023

PRESENT

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

CRL OP(MD) . No.3113 of 2023

S.Arumugam

... Petitioner/Accused

Vs

The State Rep.by
The Sub Inspector of Police,
Fort Police Station (Crime),
Tiruchirappalli
(Crime No.87 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Ganapathi Subramanian.P,
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.87 of 2023 on the file of the respondent police

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 457 and 380 of I.P.C., in Crime No.87 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the owner of the property premises in T.S.No.38, Big Bazar Street, Trichy to an extent of 2400 sq.ft., and he is running a business of stainless steel. There was a dispute between the de-facto complainant and the bank with regard to the property and in the meanwhile one Arumugam had taken auction of the property from the Court and he was threatening that he would vacate the de-facto complainant by force. Whiles on 21.01.2023, he had closed the shop and when he had opened the shop on 22.01.2023, it had found that a sum of Rs. 4,00,000/- kept in the shop was stolen. Hence, the case.

<https://www.hc.madras.gov.in/>



3.The learned counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given against him. He would further submit that the petitioner is the successful bidder and auction purchaser of the property belonging to the de-facto complainant Judgment Debtor and that the de-facto complainant was preventing from executing thea decree of the Court, whereas, he has given a false complaint to prevent the petitioner from taking possession of the property. He would further submit that the major part of the investigation is over. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that petitioner is the owner of the property premises in T.S.No.38, Big Bazar Street, Trichy to an extent of 2400 sq.ft., and he is running a business of stainless steel. There was a dispute between the de-facto complainant and the bank with regard to the property and in the meanwhile one Arumugam had taken auction of the property from the Court and he was threatening that he would vacate the de-facto complainant by force. Whiles on 21.01.2023, he had closed the shop and when he had opened the shop on 22.01.2023, he had found that a cash of Rs.4,00,000/- kept in the shop was stolen. Hence, he would object for grant of bail.

5. Heard. Perused the materials available on record including the First Information Report.

6.Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner, with certain conditions:

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.1, Trichy on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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, daily at 10.30 a.m., for a period of two weeks and thereafter, on every alternate day at 10.30 a.m., until further orders.



[c] the petitioner shall not tamper with 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].

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

sd/-

20/02/2023

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/03/2023

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
TRICHY.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
FORT POLICE STATION (CRIME), TIRUCHIRAPPALLI
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.3113 of 2023

Date :20/02/2023

SS/RG/SAR II(02.03.2023) 3P 5C