



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRACRL.O.P(MD)No.3856 of 2023

WEB COPY

Esakkimuthu

... Petitioner/Accused 2

-VS-

The State represented by
The Inspector of Police,
Kalugumalai Police Station,
Thoothukudi District.
(in Cr.No.21 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.21 of 2023.

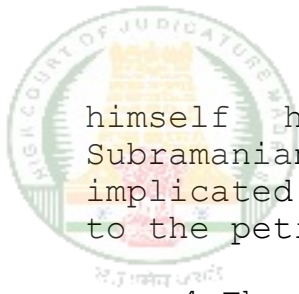
For Petitioner	: Mr.S.Jacksondurai, Advocate
For Respondent	: Mr.P.Kottai Chamy
	Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 408 and 420 of IPC in Crime No.21 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that he is the Manager of Writer Business Services Private Limited indulging in ATM replenishment and services on contractual basis. The further allegation is that in the internal audit, it is found that the accused persons have misappropriated a sum of Rs.5,04,000/- Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and he has been unnecessarily roped-in in this case. He would also submit that he has been arrayed as A2 in this case. He would further submit that even as per the complaint, A1 is the person, who is responsible for loading cash in the ATM. Since A1 had taken leave, the petitioner was deputed only one day and the de-facto complainant has stated that there was a shortage of cash found on 31.10.2022, whereas, a complaint has been given only on 21.12.2022 after several days and the case came to be registered after one month. He would also submit that the de-facto complainant



himself has made allegations only against one Dir. and Subramanian, whereas, strangely, the petitioner's name has also been implicated in this case. Hence, he would seek for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that would submit that the petitioner is a contractual worker working under the de-facto complainant. On 31.10.2022, A1 had taken leave, thereby, the petitioner was deputed to the work and on that day, there was a shortage. However, he would submit that the complaint has been given only after 30 days. He would object for grant of anticipatory bail to the petitioner.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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, Kovilpatti, 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 everyday 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/-

28/02/2023

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

CMR

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
KOVILPATTI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
KALUGUMALAI POLICE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to K.JACKSONDURAI Advocate SR.No.3051

ORDER

IN

CRL OP (MD) No.3856 of 2023
Date :28/02/2023

SA/SAR.3/13.03.2023/3P/6C