



WEB COPY

CRL OP(MD).



23

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

Date : 16.03.2023

PRESENT

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

CRL OP(MD).No.5003 of 2023

Rev.C.Kings Hamilton Samuel ... Petitioner / Accused No.1

Vs.

The State represented by
The Inspector of Police,
Kadayam Police Station,
Tenkasi District.
(In Crime No.80 of 2023)

... Respondent / Complainant

For Petitioner : Mr.P.P.Alwin Balan, Advocate.

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

PRAYER :-

For an Anticipatory Bail in Crime No.80 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as Accused No.1, apprehending arrest at the hands of the respondent police for the offence punishable under Sections 406 and 420 of IPC, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the Accused Nos.2 to 11 being the Office Bearers of the CSI Church approached the defacto complainant and canvassed him to joint the chit being conducted by the Church for more than 40 years, as such, the defacto complainant and 23 other persons of the Village joined the chit and the defacto complainant has paid 4 chits for a sum of Rs.1,46,000/- for 73 weeks at the rate of Rs.500/- per week. It is the further case of the prosecution that while 28 dues were pending, the accused Nos.2 to 11 for and to repay the said amount and hence, the defacto complainant



made a complaint before the respondent police and on enquiry the accused Nos.2 to 11 promised to repay the amount due at the rate of Rs.5,000/- per month, but they failed to fulfil the promise. Hence, the complaint.

4. Heard both sides and perused the materials available on record.

5. It is seen that the petitioner was transferred by order dated 21.06.2021 and had taken charge of the Church as the Parish Priest and Pastorate Chairman of Pulavanoor Pastorate of CSI Tirunelveli Diocese. There are totally 11 accused, in which, the accused Nos.2 to 11 have conducted weekly auction chit individually and have collected money from general public in their own personal capacity. The petitioner being the Parish Priest of Church has no role in the chit transactions. In fact, the petitioner also filed a petition for 'not to harass' in CrI.O.P(MD)No.3791 of 2023 before this Court and this Court, by order dated 28.02.2023, has disposed of the same with a direction to follow the dictum laid down in the case of Lalitha Kumari Vs. Government of UP and Ors reported in 2014 (2) SCC 1 and pass orders in accordance with law. But the respondent police has not complied with the order and has registered the case. The other accused persons have only collected the money from the general public and no chit was conducted in the Church and therefore, custodial interrogation of the petitioner does not require, 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 his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Ambasamudram, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 as and when required for interrogation;

c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation



(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]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
16/03/2023

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

To

1.The Judicial Magistrate,
Ambasamudram.

2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
Kadayam Police,
Tenkasi District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.P.ALWIN BALAN, Advocate (SR-4516[I] dated 17/03/2023)

ORDER
IN
CRL OP(MD) No.5003 of 2023
Date :16/03/2023

ED/CG/SAR-3 (28/03/2023) 3P 6C