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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/05/2023

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL OP(MD) . No.8879 of 2023

1. Sri Nithya

2. Muthukumaran

... Petitioners/Accused No.1&2

Vs

The State represented by
The Inspector of Police,
Nilakkottai Police Station,
Dindigul District.
Crime No.83 of 2023..

... Respondent/Complainant

For Petitioners: M/s.Mayilvahana Rajendran C,
Advocate.

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

For Intervenor : Mr.A.Jeyaramachandran

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

PRAYER :-

For Anticipatory Bail in Crime No.83 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 506(i) of IPC and Sections 3 & 4 of Tamilnadu Prohibition of Charging Exorbitant Interest Act, 2003, in Crime No.83 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant borrowed a sum of Rs.4,50,00/- from the petitioners and paid a sum of Rs.7,07,500/- as interest and principal amount. However, the petitioners demanded a further sum of Rs.4 lakhs. Hence, the complainant.



3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that the first petitioner is an Advocate. The defacto complainant borrowed a sum of Rs.4 lakhs from A3 and issued a cheque in favour of him and the same was dishonored. Hence, A3 filed a complaint before the Judicial Magistrate No.I, Dindigul and the same was taken on file in C.C.No.513 of 2021.

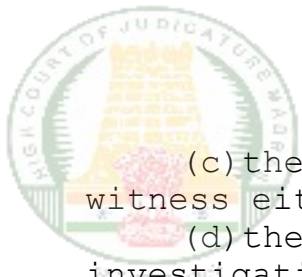
4.The learned Government Advocate (Crl.Side) and the learned counsel for the defacto complainant would submit that the defacto complainant borrowed a sum of Rs.4 lakhs from the petitioners. At that time, they received blank cheques from the defacto complainant. Even though, entire amount was repaid by the defacto complainant, the blank cheques were not returned back by A1. Even after collection of entire amount, he has initiated the proceedings under Section 138 of Negotiable Instrument Act before the Judicial Magistrate No.I, Dindigul and the same was taken on file in C.C.No.513 of 2021. The first petitioner/A1 is also counsel on record for A3. Hence, they vehemently opposed to grant anticipatory bail to the petitioners.

5.Considering the facts and circumstances of the case and also considering the conduct of the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this petition is dismissed as against the first petitioner is concerned. Insofar as the second petitioner is concerned, he is being the husband of the first petitioner, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

6.Accordingly, this petition is partly allowed and the second 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, Nilakkottai, on condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)**, with two sureties **(of which one shall be a blood related surety)** for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a)the second petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the second petitioner shall report before the respondent police twice in a week i.e., on every Wednesday and Saturday at 10.30 am., for a period of three months and thereafter, as and when required for interrogation.



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

(d)the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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 / second petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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

DSS

TO

1 THE JUDICIAL MAGISTRATE
NILAKKOTTAI.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, DINDUGAL DISTRICT.

3 THE INSPECTOR OF POLICE
NILAKKOTTAI POLICE STATION, DINDIGUL DISTRICT.

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

+1 CC to M/s.C.MAYILVAHANA RAJENDRAN, Advocate (SR-7467[I] dated 18/05/2023)

ORDER

IN

CRL OP(MD) No.8879 of 2023

Date :17/05/2023

SS/CG/SAR /23/05/2023/3P/6C