



WEB COPY

CRL OP(MD).A



22

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

Date : 10.03.2023

PRESENT

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

CRL OP(MD).No.11883 of 2022

1.Habeebur Rahaman
2.Fazlur Rahman
3.Nayeema Rehana

... Petitioners/Accused
Nos.2 to 4

Vs.

1.State represented by
The Inspector of Police,
City Crime Branch,
Tiruchirapalli.
(Crime No.17 of 2022)

... Respondent/Complainant

2.K.Nagappan

... Respondent No.2

(R2 is suo-motu impleaded as per order,
dated 04.07.2022 in CrI.O.P(MD)No.11883
of 2022 by GIJ)

For Petitioners : Mr.K.Arunraj
Advocate.

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

For Intervenor : Mr.M.Karunanithi

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

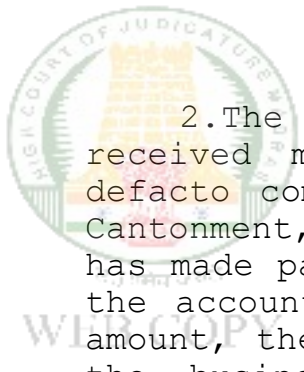
PRAYER :-

For Anticipatory Bail in Crime No.17 of 2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A2 to A4, apprehending
arrest at the hands of the respondent police for the offences
punishable under sections 406, 417 and 420 of IPC, on the file of
the respondent police, seek anticipatory bail.

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



2.The case of the prosecution is that the petitioner had received money from the defacto complainant assuring that the defacto complainant will be a partner in the BPCL Petrol Bunk at Cantonment, Trichy. On believing the words, the defacto complainant has made payments on various dates to the tune of Rs.18,60,000/- to the account of the petitioners. But inspite of receiving the said amount, the defacto complainant has not been added as a partner in the business and cheated the defacto complainant. Hence, the complaint.

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

4.It is seen that the father of the first and second petitioner has already borrowed a sum of Rs.18,60,000/- on execution of pro-note in favour of the defacto complainant. But, he has not returned the same and also died. Thereafter, the defacto complainant filed a suit in O.S.No.25 of 2022 on the file of the Principal District and Sessions Court, Tiruchirappalli for recovery of money on the strength of pro-note and the same is pending. Therefore, the entire transactions are civil in nature and custodial interrogation of the petitioners does not require, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

5. Since the third petitioner died, this Criminal Original Petition is dismissed in respect of the third petitioner.

6. Accordingly, the petitioners 1 and 2/A2 and A3 are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Tiruchirapalli, on condition that the petitioners 1 and 2 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners 1 and 2 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 1 and 2 shall report before the respondent police as and when required for interrogation;

(c) the petitioners 1 and 2 shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 1 and 2 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 1 and 2 in accordance with law as if the conditions have been imposed and the petitioners 1 and 2 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 petitioners 1 and 2 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

7. Accordingly, this Criminal Original Petition is partly allowed.

sd/-
10/03/2023

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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 No.1, Tiruchirapalli.
2. Do through the Chief Judicial Magistrate,
Tiruchirapalli.
3. The Inspector of Police,
City Crime Branch,
Tiruchirapalli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.ARUNRAJ, Advocate (SR-4121[I] dated 14/03/2023)

ORDER
IN
CRL OP (MD).No.11883 of 2022
Date : 10.03.2023

NA/SBN/SAR-2/29.03.2023/3P/6C

<https://www.mhc.tn.gov.in/judis>