



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

Date : 08/06/2023

PRESENT

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

CRL OP(MD) . No.9945 of 2023

1. Muneeswaran
2. Selvi
3. Aasaithambi @ Ganesan
4. Govindammal

... Petitioners/Accused 1 to 4

Vs

The State rep. by
The Inspector of Police,
Sivsgiri Police Station,
Tenkasi District.
Crime No.375 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Bhaskar P,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.375 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 5o A4 who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of I.P.C., in Crime No.375 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant's husband was Ex-service man. The accused are family relatives of the de-facto complainant. On 01.06.2021, the de-facto complainant's husband passed away. She and her husband had joint accounts in three banks. After the death of her husband, nobody was taking care of her. Thereafter, all the accused started



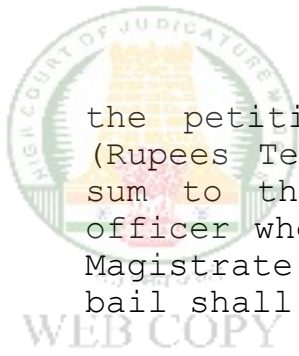
coming to the house of the de-facto complainant to help her. At that time, the first accused started withdrawing money from the ATM using the ATM card of her husband. After the death of her husband, she had kept Rs.3.5 lakhs at home after selling a piece of land, the first accused in order to cheat the above amount had taken the complainant on 06.08.2021 to Indian Bank, Sivagiri for opening an account and deposited the said amount. The first accused said to have taken the ATM card of the above account number for withdrawing the amount of Rs.3.5 lakhs during the period from 11.09.2021 to 03.02.2022. Likewise from 16.08.2021 to 12.09.2021 the first accused without the knowledge of the de-facto complainant using the ATM card withdrew the amounts of money. Further from the Central Bank of India, bank account of de-facto complainant, the first accused said to have withdrawn Rs.12,000/- without the knowledge of the de-facto complainant. After the death of her husband, ATM card did not work. Therefore, the first accused took the de-facto complainant to the bank for withdrawing Rs.3,00,000/-. The de-facto complainant was admitted in the hospital during the month of last January for eye operation. At that time, all the accused took away Rs.1,00,000/- from the house of the complainant. At present, the accused have constructed 4 shops using the above money. Using the above money, A1 had purchased car from Pollachi. He have renovated and furnished his house. Hence, the case.

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

4.It is seen that the de-facto complainant originally lodged a complaint before the respondent police and enquiry was conducted and the same was closed. The allegation is that the petitioners are very close relatives of the de-facto complainant and after demise of her husband, she was taken care by the petitioners. During that period, they had withdrawn money from three accounts without her knowledge. In fact, the de-facto complainant already filed writ petition before this Court in W.P.(MD)No.20181 of 2022 and this Court closed the writ petition recording the submissions that already the complaint lodged. However, the de-facto complainant was given liberty to file a private complaint and accordingly, she lodged a complaint and sought for direction under Section 156(3) of Cr.P.C. On such direction, the respondent police registered the FIR. Therefore, the custodial interrogation of the petitioners do not required in this case.

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

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, learned Judicial Magistrate, Sivagiri, on condition that



the petitioners shall execute a bond for a sum of Rs /- (Rupees Ten Thousand only) each 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 petitioners 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 first petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation; and the petitioners 2 to 4 shall report before the respondent police as and when required for interrogation;

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 in accordance with law as if the conditions have been imposed and the petitioners 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/-

08/06/2023

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

SJI

TO

1. The Judicial Magistrate, Sivagiri.
2. Do through the Chief Judicial Magistrate, Tirunelveli.



3. The Inspector of Police,
Sivagiri Police Station,
Tenkasi District.

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

+1 CC to M/s.P.BHASKAR, Advocate (SR-8320[I] dated 08/06/2023)

ORDER
IN
CRL OP(MD) No.9945 of 2023
Date : 08/06/2023

NA/BUC/SAR- /15.06.2023/4P/6C