



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

Tuesday, the Thirty First day of January Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.14661 of 2022

Gururadhakrishnan

... Petitioner/Accused No.1

Vs

The State rep. by,
The Inspector of Police,
District Crime Branch,
Theni,
Theni District.
(Crime No.19/2022).

... Respondent/Complainant

For Petitioner : M/s.R.GANDHI, Senior Counsel
for Ajmal Associates

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

For Intervenor : Mr.Babu Jeganath

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

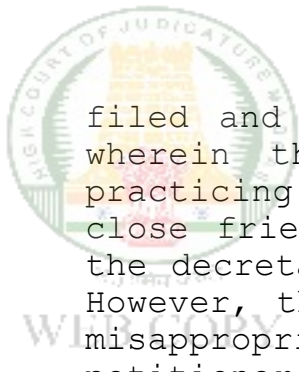
PRAYER :-

For Anticipatory Bail in Crime No.19/2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, who apprehends arrest at the hands
of the respondent police for the offences punishable under Sections
406 and 420, 506(i) and 120(b) of IPC, in Crime No.19 of 2022 on the
file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant,
namely, Anbarasi is that she got a Decree for recovery of money in
O.S.No.414 of 2000 on the file of the 1st Additional Sub Court,
Madurai and to execute the said decree, the execution petition was



filed and the same was transferred to the District Court, wherein the petitioner/A1 namely Guru Radha Krishnan, Advocate practicing in Theni District Court was engaged by her through her close friend, namely, Seenivasan(A2). The Judgment debtor has paid the decretal amount being a sum of Rs.44,75,000/- on various dates. However, the said amount has not been paid to her and the same was misappropriated by her friend/A2 in collusion with the petitioner/A1. Thereafter, the defacto complainant filed a complaint before the learned Judicial Magistrate, Theni and the case was taken on file and the learned Judicial Magistrate had directed the respondent police to hold preliminary enquiry and to register the case immediately. Based on which, the case in Crime No.19 of 2022 has been registered against the petitioner for the offences under Sections 406, 420, 506(i) and 120(b) of IPC.

3.The learned senior counsel Mr.R.Gandhi representing the counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would further submit that the petitioner is a practicing advocate in the Courts in Theni District for the past 13 years and he was engaged by A2/Srinivasan to represent the defacto complainant and he had filed Execution Petition on behalf of her. A2 was her representative and as an when the amounts were paid by the judgment debtor he has paid the same to A2. A2 has also admitted that he received the said amount and the petitioner is unnecessarily roped in this case. He would further submit that for rendering professional service to the defacto complainant, the petitioner has been falsely now roped in the case on account of the dispute between A2 and the defacto complainant. He would further submit that he is ready to comply with any stringent condition imposed on him.

4.The learned Government Advocate (Cri.Side) appearing for the respondent would submit that the petitioner is practicing advocate in Theni Court and the defacto complainant engaged his service for filing Execution Petition for recovery of the Decretal amount in O.S.No.414 of 2000 on the file of the 1st Additional Sub Court, Madurai, which was transmitted to the District Court, Theni. After getting the decree amount from the judgment debtor, the petitioner as well as A2 have received the amount and they have failed to hand over the same to the defacto complainant and they have misappropriated the same. However A2 during enquiry had admitted to having received the amount from A1. He strongly opposed to grant anticipatory bail.

5.The learned counsel appearing for the intervenor would submit that the intervenor/defacto complainant had engaged the petitioner through the second accused for filing E.P and recovery of money before the District Court and both of them received the decretal amount from the judgment debtor and failed to hand over the same to the defacto complainant and they have misappropriated the same and



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

7. The petitioner is an advocate, who was engaged by A2 on behalf of the defacto complainant. A2 has admitted that the entire amount has been received by him.

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

9.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, Theni, 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, daily at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday 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/-

31/01/2023

/ TRUE COPY /

/02/2023

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



TO

1 THE JUDICIAL MAGISTRATE, THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI, THENI DISTRICT.

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

+1. CC to M/S.AJMAL ASSOCIATES Advocate SR.No.1541(I)

ORDER

IN

CRL OP(MD) No.14661 of 2022

Date :31/01/2023

NA/SBN/SAR-2/16.02.2023/4P/6C