



WEB COPY

CRL.O.P(MD)N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.15695 of 2022

Rathika

...Petitioner

-vs-

The State represented by
The Inspector of Police,
Thallakulam Police Station,
Madurai.
(in Cr.No.1216 of 2018)

...Respondent

C.Karthik

...Intervening Petitioner/Defacto complainant
in CRL MP(MD)No. 16227 OF 2022

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

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of her arrest by the respondent Police with respect to Cr.No.1216 of 2018.

For Petitioner : Mr.C.M.Mari Chelliah Prabhu,
Advocate

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

For Intervenor :Mr.M.Shakul Hameed, Advocate
in CRL MP(MD)No. 16227 OF 2022

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 406 and 420 of IPC in Crime No.1216 of 2018 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner and her husband approached the de-facto complainant to start a partnership business and believing the same, the de-facto complainant has given a sum of Rs.15,00,000/- to them. However, without inducting the de-facto complainant as a partner in the business, the petitioner and her husband started an individual business and when it was questioned by the de-facto complainant, the



petitioner and her husband failed to repay the amount and the de-facto complainant. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that earlier the matter was referred to mediation and the petitioner, during the mediation, had agreed to repay Rs.2,50,000/- to the de-facto complainant without prejudice to her rights. Subsequently, she has also paid a sum of Rs.80,000/- and later, she was unable to pay the balance amount of Rs.1,70,000/-, as agreed by her and thereby, the earlier order of anticipatory bail was dismissed. He would further submit that the petitioner has now arranged the funds and she is ready to comply with the undertaken given before the Mediation Centre. Now, she has paid the balance amount and seek anticipatory bail.

4.The learned Government Advocate (Crl.side) would submit that the petitioner had earlier approached this Court and this Court had directed the parties to appear before the Mediation Centre and during mediation, the petitioner had agreed to pay a sum of Rs.2,50,000/- and later, she had paid only a sum of Rs.80,000/- and since the balance amount was not paid, the mediation was closed and thereafter, the petitioner had filed a petition for anticipatory bail in Crl.O.P.(MD)No.17434 of 2018 and this Court, by order, dated 09.10.2018 had dismissed the said petition. Further, he would submit that now the petitioner has paid the balance amount of Rs.1,70,000/- as agreed.

5.The learned Counsel for the intervenor would submit that the intervenor has received a sum of Rs.,1,70,000/- as per the compromise in the mediation and in total, he has received a sum of Rs.2,50,000/- without prejudice to his case.

6.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., and also the fact that the de-facto complainant has received a sum of Rs.2,50,000/- in terms of mediation, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II (FAC), Madurai District, 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 everyday at 10.30 a.m., for a period of one week and thereafter, as and when required.

[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/-

06/01/2023

/ TRUE COPY /

/01/2023

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

CMR

TO

1 THE JUDICIAL MAGISTRATE NO.II, (FAC) MADURAI DISTRICT.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
THALLAKULAM POLICE STATION, MADURAI.

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

+1 CC to M/s.MARI CHELLIAH PRABHU C M, Advocate (SR-350[I] dated 06/01/2023)

ORDER

IN

CRL OP(MD) No.15695 of 2022

Date :06/01/2023

PKP/SSS/SAR-1/23.01.2023/3P/6C

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