



CRL OP(MD). No.17069 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.17069 of 2023

N.Stalin

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
Thenkarai Police Station
Theni District.
Crime No. 354 of 2023.

... Respondent/Complainant

For Petitioner : Mr.T.Thirumurugan,
Advocate.

For Respondent : Mrs.M.Aasha,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 354 of 2023 on the file of the respondent Police.



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ORDER : The Court made the following order :-
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The petitioner/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under sections 406, 417, 294(b) and 506(ii) IPC in Crime No.354 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner had availed loan with "Equidas Small Finance" for the purchase of vehicle bearing Regn.No.TN 75 D 5253, but, subsequently, he has not paid EMI. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that the allegation against the petitioner is false one. Earlier petition filed by the petitioner in Crl.O.P (MD).No.15391 of 2023 was dismissed as unnecessary since the petitioner enquiry has been conducted and closed. Now, again the present complaint has been registered against the petitioner and seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the alleged vehicle TN 75 D 5253 stands in the name of defacto complainant. But the allegation in the First Information Report was in the month of



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May 2016, the vehicle was sold to one Kumar for Rs.2,40,000/- and this petitioner has received the amount and gave a sum of Rs.20,000/- to the defacto complainant and taken remaining amount for payment to the Equidas Small Finance but not paid and not produced the No Objection Certificate. Therefore, the defacto complainant demanded money on 31.07.2023. since he has not repaid, the complaint has been given against the petitioner.

5. On perusal of the FIR, it reveals that still the vehicle stands in the name of the defacto complainant. If the vehicle stands in the the name of the defacto complainant as on date the allegation in the complaint seems to be false one.

6. Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260, this Court is of the considered view that the alleged offence against the petitioner are not a case of heinous crime. Further, the petitioner is having permanent resident at Madurai and the origin of the crime is money dispute. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home



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Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused have their roots in the community and is not likely to abscond, they can safely be released on his own bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioner. 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, Periyakulam, Theni District on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 shall appear before the trial Court on receiving summons as directed by the trial Court.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[c] the petitioner shall not abscond either during investigation or trial.

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[d] 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

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/10/2023

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

TRP

TO

1.THE JUDICIAL MAGISTRATE, PERIYAKULAM, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

3.THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION
THENI DISTRICT.



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

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-15016[I] dated 11/10/2023)

ORDER
IN
CRL OP(MD) No.17069 of 2023
Date :11/10/2023

RK/JGB (20/10/2023) 6P /6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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