



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

PRESENT

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

CRL.O.P(MD)No.21014 of 2021

1.D.Karthikeyan

2.N.Rajakannan

...Petitioners/Accused Nos.1 & 2

-vs-

1. The State represented by

The Inspector of Police,

Theni Police Station,

Theni District.

(Cr.No. 1075 of 2021)

...1st Respondent/Complainant

2.Najunisha

...2nd Respondent/

Defacto complainant

(R2 is *suo motu* ipleaded as per order of this Court dated 4.1.2022 in Crl.O.P(MD)No.21014 of 2021 by GIJ)

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.1075 of 2021 on the file of the respondent Police.

For Petitioners : Mr.I.Pinaygash

For R1 : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)

For R2 : Mr.S.Venkata Subramanian for R2

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 406, 420 r/w 34 IPC in Crime No.1075 of 2021 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution as per the de-facto complainant Najunisha is that the petitioners had induced her in the guise of obtaining Visa for her son to go to Canada and had received a sum of Rs.3,50,000/- and cheated the defacto complainant. Further, during the course of investigation, it came to light that the petitioners have already cheated 2 other persons also.



3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false complaint has been given. He would also submit that the petitioners have processed the Visa application of the defacto complainant's son and since certain documents were not proper, Visa application was rejected. However, the defacto complainant has given a complaint as if the petitioners have cheated her and even before registration of the case, the petitioners have refunded a sum of Rs.1 lakh to the defacto complainant and earlier, the matter was referred to mediation and during mediation, the petitioners have repaid Rs.50,000/- to the defacto complainant and further a document relating to a property worth Rs.8 lakhs is now retained by the defacto complainant. He would seek for anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) would submit that the petitioners have induced the defacto complainant in the guise of obtaining Visa for her son to go to Canada and cheated her to the tune of Rs.3 lakhs. He would further submit that earlier the matter was referred to mediation and during mediation, the petitioners have given Rs.50,000/- to the defacto complainant. He would also submit that there are 3 other victims in this case and the accused have cheated totally Rs.7,25,000/- and he opposes to grant anticipatory bail to the petitioners.

5.Heard and perused the materials available on record. Taking into consideration 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, before the learned Judicial Magistrate, Theni, on condition that the petitioners shall execute 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 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 petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[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/-

01/03/2023

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

CM

To

1.The Judicial Magistrate, Theni.

2.-do-Through The Chief Judicial Magistrate, Theni.

3.The Inspector of Police,
Theni Police Station,
Theni District.

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

ORDER

IN

CRL OP(MD) No.21014 of 2021

Date :01/03/2023

RD/AR/SAR-IV (08/03/2023) 3P 5C