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CRL OP(MD). No.17659 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/10/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.17659 of 2023

A.Chandrasekaran,

... Petitioner/ Accused 5

Vs

The Inspector of Police,
District Crime Branch,
Theni,Crime No.35/2023.

... Respondent/Complainant

Prabhu

... Petitioner/Intervener/Defacto Complainant
In CrI.MP(MD).14359/2023 in CrI.OP(MD).17659/2023

For Petitioner : M/s.APPADURAI.K,
Advocate.

For Respondent : Mr.R.SURESHKUMAR,
Government Advocate (CrI.Side)

For Intervenor : Mr.GANDHI, Senior Counsel
for M/s. Gandhi Associates

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

PRAYER :- For Anticipatory Bail in Crime NO.35/2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/ Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 417, 468, 471, 420 and 120(B) IPC in

Crime No 35 of 2023 on the file of the respondent police, seeks anticipatory bail.



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2. The case of the prosecution as per the defacto complainant is that believing the words of the petitioner that he will arrange job in the Government Department to the defacto complainant, the de facto complainant has given a sum of Rs.6,75,000/- to the petitioner herein and subsequently, the petitioner has not arranged any job or repay the amount. Hence, the complaint., hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to deposit sum of Rs.6,75,000/- and seeks anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that this is a case of job racketing and the investigation of the case is pending and hence, strongly opposed to grant anticipatory bail to the petitioner.

5. On perusal of the FIR, it is noticed that it is a case of job racketing and now, the petitioner is ready to deposit the said sum of Rs.6,75,000/-.

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 Kamlendra 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 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner



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is having permanent residents at Theni District and he is ready to deposit the amount received by him. Hence the principles stated in Hussainara Khatoon & Ors vs. Home 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 to 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 has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, this Court is 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 is made ready, before the learned Judicial Magistrate, Uthamapalayam on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 has to deposit a sum of Rs.6,75,000/- (Rupees Six Lakhs and Seventy Five Thousand only) to the credit of crime No.35 of 2023, alleged to be



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received from the defacto complainant. On such deposit, the Court is directed to give that amount to the defacto complainant without notice to the accused / petitioner herein.

[b] the petitioner shall appear before the trial Court on receipt of summons as directed by the trial Court.

[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/-

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



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TRP
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1 THE JUDICIAL MAGISTRATE,
UTHAMAPALAYAM.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THENI DISTRICT.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI

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

+1. CC to M/S.GANDHI ASSOCIATES, SR.No.15321

+1. CC to M/S.APPADURAI.K Advocate SR.No.15349

ORDER
IN
CRL OP(MD) No.17659 of 2023
Date :16/10/2023

SA/VRS/SAR. /20.10.2023/5P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.