



CRL OP(MD). No.17970 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2023

PRESENT

The Honourable Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.17970 of 2023

Prabhu Dhas

... Petitioner/Sole Accused

Vs

1.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
(Crime No.403 of 2023).

... Respondent/Complainant

2.Nainar

...Petitioner/Defacto Complainant

For Petitioner : M/s.Susi Kumar C,
Advocate.

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

For Intervenor : Mr.R.Rajeshkumar, Advocate

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



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PRAYER :-
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For Anticipatory Bail in Crime No. 403 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 IPC in Crime No.403 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner has received a sum of Rs.4,00,000/- from the defacto complainant to redeem his jewels and he assured that he will repay the amount along with interest. However, he did not repay the same. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the innocent person and he has not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Government Advocate (criminal side) appearing for the respondent police would submit that the petitioner has cheated the defacto



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complainant to the tune of Rs.4,00,000/- Hence, he strongly opposed to grant anticipatory bail to the petitioner.

5. The learned counsel for the intervenor would submit that the petitioner by giving false promise, cheated the defacto complainant. Hence, he strongly objected to grant anticipatory bail.

6. Heard both sides and perused the materials available on the record.

7. Considering the facts and circumstances of the case and 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 and taking into consideration the origin of crime, it is seen that the alleged offence against the petitioner is not a case of heinous crime. Further, the petitioners are having permanent resident at Tirunelveli District. 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



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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 has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

8.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 made ready, before the learned Judicial Magistrate, Valliyoor 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 trial Court on summons.



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[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/-
03/11/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SKN

TO

1.THE JUDICIAL MAGISTRATE, VALLIYOOR, TIRUNELVELI DISTRICT.



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2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI

3. THE INSPECTOR OF POLICE,
VALLIYOOR POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1 cc to MR.C.SUSIKUMAR, Advocate SR-16019

ORDER
IN
CRL OP(MD) No.17970 of 2023
Date :03/11/2023

RK/VR (06/11/2023) 6P / 6C

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