



CRL OP(MD). No.19339 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26.10.2023

PRESENT

The Hon'ble Mr.Justice R.SAKTHIVEL

CRL OP(MD). No.19339 of 2023

1.Prema

2.Karthikeyan

... Petitioners/ A1 & A2

Vs

State represented by
The Inspector of Police,
Jaihindpuram Police Station,
Madurai City
(In Crime No.563 of 2023)

... Respondent/Complainant

For Petitioners : Mr.A.Balaji, Advocate

For Respondent : Mr.Sivakumar
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.563 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for



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the alleged offence punishable under Sections 406 and 420 of I.P.C. in Crime No.563 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on the assurance given by the petitioners, the defacto complainant gave a sum of Rs.5 lakhs to the petitioners. The petitioners gave assurance that they will pay interest at the rate of 8% per month. After receiving the said amount, the petitioners did pay a sum of Rs.40,000/- only for two months. Thereafter the petitioners did pay a sum of Rs.30,000/-. Thereafter, the petitioners did not pay any amount to the defacto complainant. The defacto complainant requested the petitioners to return the said amount. But, the petitioners did not return the same and thereby cheated the defacto complainant. Hence, the defacto complainant lodged a complaint against the petitioners.

3. The learned counsel for the petitioners submitted that the petitioners and the defacto complainant are neighbors and there is a money transactions held between them. Hence, the defacto complainant lodged a false complaint against the petitioners. He submitted that the petitioners are ready to abide any condition to be imposed by this Court. The petitioners have permanent address and deep roots in the society. Accordingly, he prayed to allow the petition.



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4. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent police submitted that the petitioners received a sum of Rs.5 lakhs from the defacto complainant and assured to give 8% interest per month. He further submitted that the petitioners paid interest Rs.40,000/-+Rs.30,000/- =Rs.70,000/- only to the defacto complainant. Thereafter, the petitioners neither paid the principal amount nor interest as assured by them and thereby cheated the defacto complainant. He further submitted that investigation is not yet completed. The learned Government Advocate (Crl.side) prayed for dismissal of this petition.

5. This Court considered the submissions made on either side.

6. A bare reading of First information Report would show that there is a money transaction between the petitioners and the defacto complainant. It appears that the defacto complainant has not filed any civil suit against the petitioners so far. The petitioners have permanent residence and deep roots in the society. Hence, there is no apprehension of absconding.

7. Considering the nature of dispute as alleged in the First Information Report, this Court is of the view that custodial interrogation of the petitioner is not necessary. Hence, this Court is inclined to grant pre-arrest bail to the petitioners subject to conditions.



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8. Accordingly, this Criminal Original Petition is allowed and pre-arrest bail is granted to the petitioners subject to the following conditions:-

(i)The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the **Judicial Magistrate No.IV, Madurai**, within 15 days from today, on their executing a bond for **Rs.50,000/- (Rupees Fifty Thousand only)**, **each** with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Madurai.

(ii)The petitioners shall appear and sign before the respondent Police daily at 10.00 a.m. until further orders.

(iii)The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proof to ensure their identity.

(iv)The petitioners shall not tamper with the evidence or witness either during investigation or trial.



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(v)The petitioners shall appear and co-operate with the Investigation Agency as and when required for investigation.

(vi)If the petitioners abscond, a fresh FIR shall be registered under section 229A of IPC.

(vii)on breach of any of the aforementioned conditions, the learned Judicial Magistrate is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) 13 SCC 283]**.

sd/-
26/10/2023

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

CM

TO

1 THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.



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2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

3 THE INSPECTOR OF POLICE
JAIHINDPURAM POLICE STATION, MADURAI CITY.

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

+1 CC to M/s.A.BALAJI, Advocate (SR-15630[I] dated 27/10/2023)

ORDER
IN

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Date :26/10/2023

SS/JGB/SAR- /06/11/2023/6P/6C

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