



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**CRL.O.P(MD)No.22135 of 2022

WEB COPY

Josaph Loyala @ Joseph Loyala

...Petitioner/Accused No.1

-vs-

1.The State represented by
The Inspector of Police,
District Crime Branch Police Station,
Virudhunagar District.
(in Cr.No.22 of 2022)

...Respondent/Complainant

2 The President,
Sivakasi Institute of Printing Technology,
A.Meenatchipuram,
Anaikutam Post,
Virudhunagar District.

...Petitioner/Intevener/
Informant

In Crl Mp(MD)No.16251 of 2022

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.22 of 2022.

For Petitioner : Mr.P.Pandi Rani, Advocate

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)

For Intervenor : Mr.N.Dilip Kumar, Advocate

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 120B. 408 and 420 of IPC in Crime No.22 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner is working as a Cashier in the College, namely, Sivakasi Institute of Printing Technology, run by the de-facto complainant, and that during his employment, he along with other accused had collected money from the students for college fees by giving receipts and had misappropriated a sum of Rs.48,05,863/-. Hence, the complaint.



3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that this is the second petition for anticipatory bail and the earlier petition for anticipatory bail in Crl.O.P.(MD) No.18731 of 2022 was dismissed on 18.11.2022 stating that the allegations are serious in nature. He would further submit that a case of discrepancy in accounts has been projected as a case of misappropriation. He would also submit that earlier a complaint was given to the respondent police and during enquiry, the petitioner was forced to pay a sum of Rs.6,50,000/- to the de-facto complainant and he would further submit that allegations are not alone made against the petitioner and also made against yet another person, who was during the relevant time, working as an Accountant in the college. He would also submit that to show his *bona fide*, without prejudice his rights and contentions, the petitioner is ready and willing to deposit a further amount of Rs.10,00,000/- to the credit Cr.No.22 of 2022.

4.The learned Government Advocate (crl.side) would submit that totally two accused involved in this case and the petitioner/A1 has collected money from the college students and had given receipts to them and subsequently, he did not remit the amounts to the college accounts. Considering the gravity of offence, he would strongly oppose for grant of anticipatory bail to the petitioner.

5.Mr.N.Dilip Kumar, learned Counsel for the intervenor would submit that the total amount cheated is Rs.48,05,863/-. He would further submit that the petitioner, during the course of enquiry conducted by the respondent police, in his own hand writing admitted the criminal breach of trust and having swindled the sum of Rs.48,05,863/- along with the other accused and he would object for grant of bail.

6.Heard the learned Counsel and perused the materials available on record. This is the second petition for anticipatory bail and the earlier petition was dismissed by this Court by considering the gravity of offence and on the ground that the investigation is at initial stage. Now, it is submitted by the learned Counsel for the petitioner that during the course of enquiry, he had already paid Rs.6,50,000/- to the de-facto complainant and without prejudice to his rights and contentions, the petitioner is now ready and willing to deposit Rs.10,00,000/- to the credit of crime number. Considering the same, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions:

7.Accordingly, the petitioner shall deposit a sum of Rs.10,00,000/- to the credit of Cr.No.22 of 2022 without prejudice his rights and contentions and on production of proof for deposit, the petitioner is ordered to be released on bail in the event of



the date on which the order copy made ready, before the Judicial Magistrate No.II, Virudhunagar, 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 respondent police everyday at 10.30 a.m., until further orders.

[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.

8.The Judicial Magistrate No.II, Virudhunagar shall re-deposit the amount in any of the Nationalised Bank in a fixed deposit scheme and the disbursal of the amount shall be decided at the time of completion of the trial.

sd/-

08/02/2023

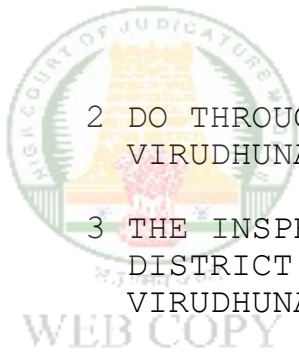
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

cmr
TO

1.THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR.



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1. CC to M/S.PANDI RANI P Advocate SR.No.2058

+1 CC TO M/S.N.DILIP KUMAR, Advocate SR-7218

ORDER

IN

CRL OP(MD) No.22135 of 2022

Date :08/02/2023

RK/SBN/SAR-4(15.02.2023) 4P/7C