



CRL OP(MD). No.19643 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2023

PRESENT

The Hon'ble Mr.Justice V.SIVAGNANAM

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1. Yasotha

2. Dharmalingam,

... Petitioners/ Accused 1 & 2

Vs

The Inspector of Police,
Bodinayakanur Town Police Station,
Theni District.

Crime No.500/2023

... Respondent/ Complainant

For Petitioner : M/s.ALAGIA NAMBI.R,
Advocate.

For Respondent : Mr.RMS.SETHURAMAN,
Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No. 500/2023 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420 of IPC in Crime No.500 of 2023 on the file of the respondent police, seek anticipatory bail.



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2. The case of the prosecution is that the accused persons approached the defacto complainant and stated that they are doing coal business and thereafter, they received Rs.20 lakhs from the defacto complainant by stating that they give Rs.2,00,000/- per month. However, they did not repay. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are the innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the accused persons, by giving assurance, received Rs.20 lakhs from the defacto complainant. Since they have not repaid the said amount, the present complaint has been filed. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

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

6. A perusal of the First Information Report, it is noticed that there is a business transaction between the petitioner and the defacto complainant. Therefore, considering the facts and circumstances of the case and taking into consideration the principle 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



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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 petitioners is not a case of heinous crime. Further, the petitioners are having permanent resident at Theni 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 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 petitioners. 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, Bodinayakanur, Theni District on condition that the petitioners shall execute a 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 :



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[a] the petitioners 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 trial Court on summons.

[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/-
03/11/2023

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



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SKN

TO

1 THE JUDICIAL MAGISTRATE,
BODINAYAKKANUR, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THENI DISTRICT.

3 THE INSPECTOR OF POLICE,
BODINAYAKANUR TOWN POLICE STATION,
THENI DISTRICT.

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

+1 CC to M/s.R.ALAGIA NAMBI, Advocate (SR-15920[I] dated 03/11/2023)

ORDER
IN

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Date :03/11/2023

SA/VR/SAR. /07.11.2023/5P/6C

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