



CRL OP(MD)No.19683 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 21.11.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.19683 of 2023

Ragusankar

... Petitioner / Accused No.3

Vs

The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(In Crime No.13 of 2023)

... Respondent / Complainant

For Petitioner : Mr.A.Mohan, Advocate

For Respondent : Mr.R.Suresh Kumar,
Government Advocate(Crl.side)

For Intervenor : Mr.A.Balaji, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.13 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for



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the offences punishable under Sections 406, 420 IPC in Crime No.13 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant has borrowed a sum of Rs.16,00,000/- from the petitioner for developing his business by promising to repay the said amount as and when the petitioner demands, for which, the defacto complainant executed a promissory note in favour of the petitioner on 25.02.2021. While being so, the defacto complainant has settled the entire debt by transferring money through the accounts of A1 and A2 by two instalments as requested by the petitioner. Subsequently, A1 and A2 have borrowed a sum of Rs.20,00,000/- from the defacto complainant to develop their business respectively. All of a sudden, the defacto complainant's wife has received a legal notice from the petitioner, in which, it was informed that the cheque issued by the defacto complainant's wife for discharging liability of Rs.16,00,000/- has been returned with an endorsement that 'Exceeds Arrangement' and when the defacto complainant has enquired about the same, the petitioner has laid a civil suit against the defacto complainant for recovery of Rs.16,00,000/- with interest accrued therein in O.S.No.62 of 2023 on the file of the Principal District Judge, Srivilliputhur. Therefore, the petitioner along with other accused have cheated the defacto complainant by receiving a sum of Rs.36,00,000/-. Hence, the case.



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

4.The learned counsel appearing for the intervenor would submit that the petitioner and other accused with a view to cheat the defacto complainant, filed the above said suit. In fact, the defacto complainant paid the entire amount, even thereafter, the accused persons by using the promissory note issued by the defacto complainant, instituted the above said suit. Hence, he strongly objected to grant anticipatory bail to the petitioner.

5.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that the investigation in this case is still pending.

6.On perusal of records, it is noticed that the petitioner herein filed a suit as against the defacto complainant for recovery of money, since there is a dispute with regard to the return of money.

7.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



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seen that the offence alleged as against the petitioner is not a case of heinous crime.

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Further the petitioner is having permanent residence at Virudhunagar 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 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 No.II, Virudhunagar on condition that the petitioner 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 :

[a] the petitioner shall affix his photograph and Left Thumb Impression in the



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surety bond and the Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure his identity.

[b] the petitioner shall report before the trial Court on summons.

[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/-
21/11/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS



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To

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1.The Judicial Magistrate No.II,
Virudhunagar.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

3.The Inspector of Police,
District Crime Branch,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.19683 of 2023

Date :21/11/2023

ED/JGB/SAR- (01/12/2023) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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