



CRL OP(MD). No.20018 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.20018 of 2023

Francis Kalaiselvan

... Petitioner/ Accused Rank not known

Vs

The Inspector of Police,
Thirumangaiaam Police Station,
Madurai District.
(In Crime No.464 of 2023).

... Respondent/Complainant

For Petitioner : Mr.B.Arun
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.464 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ Accused, who apprehends arrest at the hands of the respondent



CRL OP(MD). No.20018 of 2023

police for the offences punishable under Section 379 IPC in Crime No.464 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 25.01.2023, the defacto complainant's ICE machinery theft by unknown person. When the defacto complainant enquired near occurrence place, the petitioner voluntarily stated that he purchased the above said machine from one Athilakshmi by giving money. 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 has strongly opposed to grant anticipatory bail to the petitioner, however, he would submit that no previous case is pending against the petitioner.

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

6. Considering the facts and circumstances of the case and also considering the fact that no previous case is pending against the petitioner 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 Kamlendra 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



CRL OP(MD). No.20018 of 2023

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 petitioner is having permanent resident at Madurai 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 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 is made ready, before the learned Judicial Magistrate, Thirumangalam 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 :



CRL OP(MD). No.20018 of 2023

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[a] the petitioner shall affix his photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his 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/-
08/12/2023

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

SKN



CRL OP(MD). No.20018 of 2023

TO
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- 1 THE JUDICIAL MAGISTRATE
THIRUMANGALAM.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE
THIRUMANGAIAM POLICE STATION,
MADURAI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1 CC to M/s.B.ARUN, Advocate (SR-17642[I] dated 12/12/2023)

ORDER
IN

CRL OP(MD) No.20018 of 2023

Date :08/12/2023

SS/JGB/SAR- /13/12/2023/5P/6C

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