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CRL OP(MD). A



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22911 of 2022

Madasamy

... Petitioner/Accused No.3

Vs

The State of Tamil Nadu,
Rep. By the Sub Inspector of Police,
Central Crime Branch,
Tirunelveli City,
Tirunelveli District.
In Crime No.13 of 2022

... Respondent/Complainant

For Petitioner : M/s.P.Jesus Moris Ravi, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

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

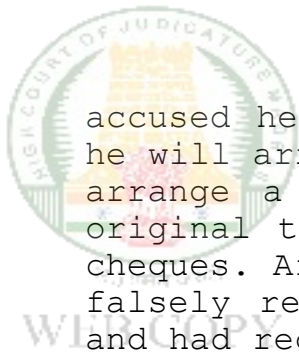
PRAYER :-

For Anticipatory Bail in Crime No.13 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.3, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 418, 420 I.P.C, in Crime No.13 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant by name Babu Jacob is that he is running a quarry business in Karur District of Tamil Ndu. Due to pandemic situation, he is unable to start the project in time as well as he could not run the unit properly due to financial crisis. Meanwhile, one Benkumar Babu a retired Engineer from Kerala State Electricity Board who is a permanent resident of Kerala and doing business in Tamil Nadu, approached him and introduced one Bala Murugan, the second



accused herein stating that he is well known influenced person and he will arrange money and thereby the second accused had promised to arrange a loan of Rs.10 Crores and based on that, he had given original title deeds of property as security and issued post dated cheques. After inspecting his assets and his income, the accused had falsely represented that he made arrangement of Rs.10 Crores loan and had received Rs.50 lakhs as advance amount as service charge and cheated him and not arranged the loan. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case since he happens to be the elder brother of the second accused. He would further submit that the second accused namely Balamurugan is a financier at Tirunelveli District and the defacto complaint had approached him for a loan of Rs.50 lakhs and the second accused had arranged the loan of Rs.50 lakhs and towards security the defacto complainant had deposited title deeds of certain immovable properties. Subsequently, there was a settlement between the parties, thereby the defacto complainant had repaid a sum of Rs.45 lakhs and Rs.4,50,000/- remained unpaid by the defacto complainant. Since the second accused had insisted to repay the amount of Rs.4,50,000/-, based on the earlier transactions a false complaint has been given as if the second accused had agreed to arrange for a loan of Rs.10 Crores and received Rs.50 lakhs as service charges and cheated him. He would further submit that the entire transaction is between the defacto complainant and the second accused and since because the petitioner is the elder brother of the second accused, he has been falsely implicated based on the alleged confession stated to be recorded from the second accused as if the petitioner has instigated to cheat the defacto complainant.

4. The learned counsel for the petitioner would also submit that based on the complaint, the petitioner's brother was called for enquiry and when he attended the enquiry, he was harassed by the investigating officer and a Four Wheeler belonging to the second accused was illegally taken by the Investigating Officer in respect of which a complaint was given to the Superior Officers. The learned counsel for the petitioner further submits that the second accused has also filed an application seeking return of vehicle and the vehicle has also been returned to him without any condition.

5. It is further submitted by the learned counsel for the petitioner that the second accused in this case has filed Crl.O.P (MD)No.19273 of 2022 before this Court for quashing the First Information Report and this Court by order dated 24.11.2022 has granted stay of proceedings. The petitioner is ready to abide any stringent condition imposed by this Court. Hence, prays to direct the release of the petitioner on anticipatory bail.



6. The learned Government Advocate (Crl.Side) : [redacted] stated that the petitioner is the elder brother of one Bala Murugan, who is arrayed as one of the accused in this case. One Benkumar introduced the defacto complainant to the said Bala Murugan. Subsequently, in alteration report, the name of Benkumar has been deleted from the case, and the said Bala Murugan was arrayed as A2 and the petitioner has been arrayed as A3. The allegation against the petitioner is that he has instigated his brother, to cheat the defacto complainant. Hence, prays to dismiss the petition. However, the learned Government Advocate(Crl.side) would concede that the petitioner has not received any monetary benefit in the transaction.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.I, Tirunelveli**, 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 Station everyday at 10.30 a.m., for a period of one week and thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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]**; and;

[f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
02/01/2023

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/01/2023

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

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TO

1.THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE SUB INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
TIRUNELVELI CITY,
TIRUNELVELI DISTRICT.

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

+1 CC to M/s..JESUS MORIS RAVI P , Advocate (SR-150[I] dated
04/01/2023)

ORDER
IN
CRL OP(MD) No.22911 of 2022
Date :02/01/2023

RK/VR/SAR-3 (09/01/2023) 4P/6C