



CRL OP(MD). No.21211 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/12/2023

PRESENT

The Honourable Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.21211 of 2023

Dudaram

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Theni Police Station, Theni.
Cr.No.487/2023.

... Respondent/Complainant

Madan Singh

... Intervene Petitioner/Defacto Complainant
In CRL MP(MD).17107/2023 in CRL OP(MD).21211/2023

For Petitioner : Mr.D.Shanmugaraja Sethupathi, Advocate.

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

For Intervenor : Mr.P.M.Vishnuvarthanan, Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No. 487/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 23.10.2023 for the alleged offences punishable under Sections 406, 420 and 506(i) IPC, in Crime No.487 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is running a mobile shop, near Theni International Hotel. The petitioner was working as Manager in the said mobile shop. While so, when the defacto complainant went to his native



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place in the State of Rajasthan, the petitioner was entrusted with the Management of the mobile shop. The defacto complainant had returned to Theni on 26.05.2023. On knowing that the petitioner had gone to Rajasthan on 21.05.2023 itself and he had not returned back to Theni. Doubting the activities of the petitioner, the defacto complainant verified the accounts and he has found that the petitioner had misappropriated a sum of Rs.6,50,000/-. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that in fact, the bank account of the petitioner has been operated by the defacto complainant and the ATM card in the name of the petitioner has been used by the defacto complainant himself. While the defacto complainant was at Rajasthan, there is no misappropriation as stated in the complaint. He would further submit that the petitioner is in custody from 23.10.2023 and custodial interrogation is not required. He would further submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Hence, the learned counsel seeks bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent police and the learned counsel appearing for the intervenor have strongly opposed to grant bail to the petitioner. They would submit that more than Rs.7,00,000/- have been misappropriated by the petitioner. When the shop was entrusted to the petitioner, he



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operated the bank account. On verification, it was found that from 02.02.2023 to 19.07.2023, on various occasions, the account has been used. Hence, they objected to grant bail.

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

6. A perusal of the records, it is seen that the petitioner was working under the defacto complainant at his mobile shop at Theni and the ATM card of the petitioner is used by the defacto complainant while the petitioner was at Rajasthan. A perusal of the bank statement would show that transactions have been done by the petitioner and the defacto complainant in the name of the petitioner. Under such circumstances, the bank account and ATM card are used by both the petitioner and the defacto complainant. Further, the petitioner is in custody from 23.10.2023. Therefore, considering the facts and circumstances and also considering the period of incarceration and taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012) 1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(i) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of blood relatives each for a like sum to the satisfaction of the learned Judicial



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Magistrate, Theni and on further conditions that:

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(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioner shall appear before the concerned Judicial Magistrate on the first working day of every English calendar month until further orders;

(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.

(vi) On breach of any of the aforesaid conditions, the learned Judge/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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
08/12/2023

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11/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE JUDICIAL MAGISTRATE, THENI

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

3 THE OFFICER INCHARGE, DISTRICT JAIL, THENI.

4 THE INSPECTOR OF POLICE, THENI POLICE STATION, THENI.

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

+1CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate, SR.No.17562(I), dated
11.12.2023

ORDER

IN

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Date :08/12/2023

RS//SAR-(11.12.2023) 5P 7C

Madurai Bench of Madras High Court is issuing
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