



CRL OP(MD). No.21373 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/11/2023

PRESENT

The Hon'ble Mr.Justice V.SIVAGNANAM

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1. V.Eswari

2. V.Balasugumar @ Bala Sukumar,

... Petitioners/ Accused 2 & 3

Vs

The Inspector of Police,
Thisaiyanvilai Police Station
Tirunelveli District.
Crime No. 438 of 2023.

... Respondent/Complainant

For Petitioner : M/s. RAJESH.P,
Advocate.

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

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

PRAYER :- For Anticipatory Bail in Crime No. 438 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/ A2 & A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 294(b) and 506(ii) IPC in Crime

No.438 of 2023 on the file of the respondent police, seek anticipatory bail.

<https://www.mhc.tn.gov.in/judis>



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2.The case of the prosecution is that one Vallinayagam, who is the husband of the first petitioner and the father of the second petitioner, borrowed Rs.10 lakhs as a hand loan from the defacto complainant to meet the second petitioner's educational expenses and as a security, he gave two cheques and bond paper of Rs.20 lakhs. When the defacto complainant presented the cheques for collection, it was bounced. When the defacto complainant demanded money, the petitioners and other accused abused him in filthy languages and threatened him with dire consequences. 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 Government Advocate (criminal side) appearing for the respondent police would submit that for non-payment of the cheque amount, the case has been registered. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

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

6. Considering the facts and circumstances of the case 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



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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 seen that the alleged offence against the petitioners is not a case of heinous crime. Further, the petitioners are having permanent resident at Tirunelveli District. Hence, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 are 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, Radhapuram 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



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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/-
28/11/2023

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



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SKN

TO

1 THE JUDICIAL MAGISTRATE,
RADHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
THISAIYANVILAI POLICE STATION
TIRUNELVELI DISTRICT.

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

+1 CC to M/s.P.RAJESH, Advocate (SR-17135[I] dated 30/11/2023)

ORDER
IN

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Date :28/11/2023

SA/JGB/SAR. /01.12.2023/5P/6C

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