



CRL OP(MD). No.22344 of 2023

WEB COPY

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

Date : 14/12/2023

PRESENT

The Honourable Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.22344 of 2023

1. A. Selvin

2. Rajmery

... Petitioners/ Accused No.1 & 2

Vs

1.The Inspector of Police,
CCB Police Station,
Tirunelveli District
(Crime No.26/2023.)

... Respondent / Complainant

2.V.Durai

... Intervener / Defacto Complainant
in CRL MP(MD) No.17703 of 2023

For Petitioners : M/s.Aayiram K.Selvakumar, Advocate.

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

For Intervenor : Mr.N.Mohideen Basha, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.26/2023 on the file of the respondent police



CRL OP(MD). No.22344 of 2023

ORDER : The Court made the following order :-

The petitioners/ A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 417, 420, 465, 468, 471, 120B IPC in Crime No.26 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with other accused have cheated the defacto complainant to the tune of Rs.79,10,000/- during the period from 12.10.2022 to 11.01.2023 for the purpose of purchasing lands in favour of the defacto complainant. Since they have miserably failed to remit back the said amount, the defacto complainant has lodged a complaint before the Judicial Magistrate No.I, Tirunelveli under Section 156(3) Cr.P.C. Based on the order dated 24.11.2023 passed by the Judicial Magistrate, the respondent police has registered the case.

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. He would further submit that the first petitioner has received a sum of Rs.75,35,000/- from the defacto complainant and repaid some amount and for the balance amount of Rs.54,10,000/-, he has given undertaking to the defacto complainant expressing his inability to purchase the land for the defacto



complainant. Hence, he prays for anticipatory bail to the petitioners.

WEB COPY

4.The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the defacto complainant has not disputed the fact that an execution of undertaking letter given by the first petitioner for repayment of the balance amount of Rs.54,10,000/-. However, he would further submit that the first accused is having one previous case and no previous case is pending against the second petitioner. Hence, he has 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 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 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



CRL OP(MD). No.22344 of 2023

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 No.I, Tirunelveli 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 dismissed and on further condition that :

[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.



CRL OP(MD). No.22344 of 2023

[d] the petitioners shall not abscond either during investigation or trial.

WEB COPY

[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/-
14/12/2023

/ TRUE COPY /

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

SKN

To

1.The Judicial Magistrate No.I,
Tirunelveli.

2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
CCB Police Station,
Tirunelveli District.



CRL OP(MD). No.22344 of 2023

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

ORDER
IN
CRL OP(MD) No.22344 of 2023
Date :14/12/2023

ED/ DD /SAR- (21/12/2023) 6P / 5C

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