



Crl.O.P.(MD) No.23637 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23637 of 2023

Karthikairajan

... Petitioner / Accused No.1

Vs

The State represented
by the Inspector of Police,
Anna Nagar Crime Police Station,
Madurai City,
Madurai District.
(Crime No.270 of 2023)

... Respondent / Complainant

For Petitioner : Mr.R.Balamuruganantham, Advocate

For Respondent : Mr.B.Thanga Aravindh
Government Advocate
(Criminal Side)

PRAYER: Criminal Original Petition filed under Section 438 of 'The Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail to the petitioner/ A1 in Crime No.270 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on



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27.12.2023 under Section 438 of 'the Criminal Procedure Code, 1973 (Act No.2 of 1974)' praying to grant an order of pre-arrest bail.

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2. The petitioner / Accused No.1 apprehends arrest at the hands of the respondent-police for the alleged offences punishable under Sections 294(b), 120B, 506(1), 406 and 420 of the Indian Penal Code, 1860-(Act No.45 of 1860) on the file of the respondent-Police.

3. The case of the prosecution is that the accused herein along with other accused persons cheated the defacto complainant as if he is involved in a scrap business asking the defacto complainant to invest a sum of Rs.10,00,000/- to avail the profit of around Rs.5,00,000/- within a period of ten days; that believing the same, the defacto complainant transferred the said amount to the petitioner's account on 28.06.2022; and that when the defacto complainant asked to repay the said amount, the accused persons refused to repay the same. Hence, the case.

4. The learned counsel for the petitioner submitted that petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that petitioner and the Defacto complainant jointly doing various business. Defact



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complainant invested some money in the business; that the petitioner returned money to the Defact complainant on various dates; that Now, Defacto complainant filed false case against the petitioner; that Petitioner has permanent residence and that the respondent police is attempting to arrest the Petitioner. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the accused received huge amount of money from the defacto complainant and failed to repay the said money. He further submitted that the investigation in this case is not yet completed. Further, he submitted that custodial interrogation of the Petitioner is necessary for the investigation to unearth truth. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. This Court has perused First Information Report. In the First Information Report, four persons were shown as accused persons. Petitioner is shown as Accused No.1. His wife and parents are shown as A3 & A4. The defacto complainant herein is one Balavairavan. The case of the defacto complainant is that



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the petitioner herein borrowed a sum of Rs.15,00,000/- from Defacto complainant through Bank transaction and thereafter, the petitioner herein did not return the said amount. Bare reading of First Information Report shows that it is purely a civil dispute between the petitioner and the defacto complainant. In view of the nature of the disputes between the Petitioner and Defacto complainant, this Court is of the view that custodial interrogation of the petitioner is not necessary to the investigation. The petitioner has permanent residence. The petitioner has wife and parents and has deep roots in the society. Hence, this Court is of the considered view that the possibility of absconding of petitioner is very less.

8. Considering the above facts and circumstances of the case, this Court is inclined to grant an order of pre-arrest bail to the petitioner with conditions. Accordingly, pre-arrest bail is granted to the petitioner subject to the following conditions.

(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate No.VI, Madurai, Madurai District within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the



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satisfaction of the learned Judicial Magistrate No.VI, Madurai, Madurai District;

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(ii) The petitioner shall appear and sign before the respondent Police daily at 10.00 A.M, until further orders;

(iii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioner shall make himself available for interrogation by police as and when required;

(v) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(vi) The petitioner shall not leave India without the prior permission of the Court; and

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(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
28/12/2023

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/01/2024
Sub-Assistant Registrar (C.S. -I,II,III,IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tsg

TO

- 1.The Judicial Magistrate No.VI,
Madurai, Madurai District.
- 2.Do through the Chief Judicial Magistrate,
Madurai.
- 3.The Inspector of Police,
Anna Nagar Crime Police Station,
Madurai City, Madurai District.

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

+1 CC to M/s.R.BALAMURUGANANTHAM, Advocate (SR-30[I] dated 02/01/2024
)

ORDER
IN
CRL OP(MD) No.23637 of 2023
Date :28/12/2023

RK/DD (03/01/2024) 7P / 6C
Madurai Bench of Madras High Court is issuing certified copies in this format from
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