



Crl. O.P. No.12060 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl. O.P. No.12060 of 2024

1.Arunagiri S/o.Elumalai

2.Jothi W/o.Arunagiri ... Petitioners / Accused Rank Not Known

Versus

State rep. by-

The Inspector of Police,
J-9, Thoraipakkam Police Station (Crime),
Chennai Sub Urban,
Chennai - 97
(Crime No.Not Known of 2024)

... Respondent/Complainant

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 petitioners / Accused in Crime No.Not Known of 2024 on the file of the respondent police.

For Petitioners : Mr. R.Balakrishnan

For Respondent : Mr.C.E.Pratap
Government Advocate (Criminal Side)



ORDER

This Criminal Original Petition has been filed by the petitioners on 14.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners / Accused apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Section 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 petitioners are husband and wife. The 1st petitioner obtained a sum of Rs.1,00,000/- as a hand loan on interest basis from the defacto complainant's husband. Thereafter, the petitioners neither paid interest nor returned the principal amount and thereby, cheated the defacto complainant's husband. Hence, the case.

4. The learned counsel for the petitioners submitted that petitioners are innocent persons and they have been falsely implicated in this case. He submitted that petitioners have no connection to any of the offences as alleged by the prosecution. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioner.



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5. The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the defacto complainant deposited a sum of Rs.2,17,000/- (Rupees Two Lakhs and Seventeen Thousand only) to the 1st petitioner's account. Further, he submitted that custodial interrogation of the petitioners 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. The learned counsel for the petitioners submitted that the petitioners have already paid a sum of Rs.90,000/- (Rupees Ninety Thousand only). He also submitted that the petitioners are ready to pay the remaining amount of Rs.90,000/- (Rupees Ninety Thousand only) (Agreed amount). In view of the bonafide conduct submission of the learned counsel for the petitioners, this Court is of considered view that the custodial interrogation of the petitioners is not necessary by the investigating agency. Hence, this Court is inclined to grant an order of pre-arrest bail to the petitioners herein with conditions.

8. Accordingly, pre-arrest bail is granted to the petitioners subject to the following conditions :



(i) The petitioners shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) (each Rs.50,000/-) to the credit of the Crime No.171 of 2024 on the file of the J-9, Thoraipakkam Police Station (Crime), Chennai Sub Urban, Chennai, before the learned Judicial Magistrate No.II, Alandur. In turn, the learned Judicial Magistrate shall deposit the said amount in a nationalized Bank initially for a period of one year and renew them periodically until the final order / judgment.

(ii) The petitioners shall execute a bond for Rs.20,000/- (Rupees Twenty Thousand only) and furnish two sureties each for a like sum of Rs.20,000/- (Rupees Twenty Thousand only) to the satisfaction of the learned Judicial Magistrate No.II, Alandur.

(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 petitioners shall appear and sign before the respondent Police weekly twice i.e., on every Monday and Friday at 10.00 A.M, until further orders;



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(v) The petitioners shall make themselves available for interrogation by police as and when required;

(vi) The petitioners 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;

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioners 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.

17.05.2024

Index : Yes/No
Internet : Yes/No
Neutral citation : Yes/No
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Note:-

1. Registry is directed to forthwith upload this order in the official website of this Court.
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

To

- 1.The Judicial Magistrate No.II,
Alandur.
- 2.Do Through:
The Chief Judicial Magistrate,
Chengalpattu.
- 3.The Inspector of Police,
J-9, Thoraipakkam Police Station (Crime),
Chennai Sub Urban,
Chennai - 97
- 4.The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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