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

Wednesday, the Third day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.19659 of 2023

1 G. VIKUNDARAJA @ RAJA

2 G.GOPALAKRISHNAN ... PETITIONERS / ACCUSED RANK NOT KNOWN

Vs

THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
NAGERCOIL,
KANYAKUMARI DISTRICT,
(*)CRIME NO.39 OF 2023 ... RESPONDENT / COMPLAINANT
(*)Amended as per order of the court dated 27.11.2023 in Crl MP (MD)No. 16736 OF 2023 IN Crl OP(MD)No. 19659 OF 2023 BY VSGJ

For Petitioner : M/S.RAJESH.P Advocate

For Respondent : MR.P.KOTTAICHAMY, Govt. Advocate ( Crl. Side)

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

PRAYER:
FOR ANTICIPATORY BAIL IN CRIME NO. NOT KNOWN OF 2023 ON THE FILE OF THE RESPONDENT POLICE.

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ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 406 and 420 IPC in Cr.No.39 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are arrayed as A1 and A3. The de-facto complainant made a complaint stating that the petitioners made a false promise to obtain a job and collected huge money.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons. He would further submit that already a sum of Rs.1,00,000/- was paid to the de-facto complainant. However, on instructions, the learned counsel for the petitioners would submit that without prejudice to his rights, the petitioners are willing to deposit a sum of Rs.3,00,000/- (Rupees three lakhs only) before the trial Court and the said amount may disburse to the de-facto complainant; if the petitioners succeed in the trial, the said amount may be refunded. Accordingly, he prays for grant of anticipatory bail.

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4.The learned Additional Public Prosecutor submitted that there is no previous case against the petitioner. Since the defacto complainant was cheated for huge sum of money by the petitioners, a case has been registered. He would further submit that the name of the 2nd petitioner, who is arrayed as A3, was deleted in the FIR.

5. Since the name of the 2nd petitioner/A3 was deleted, this petition is closed as against the 2nd petitioner/A3.

6. Considering the facts and circumstances of the case and considering the submission now made by the learned counsel for the petitioner, I am inclined to grant anticipatory bail to the 1st petitioner.

7.Accordingly, the petitioner/A1 is granted anticipatory bail and he is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, No.I, Nagercoil, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to

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arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)if the first petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the first petitioner shall deposit a sum of Rs.3,00,000/- (Rupees three Lakhs) without prejudice to his defence before the trial Court and the concerned Magistrate, shall accept the sureties furnished by the petitioner on such payment being made and proof filed by the petitioner. After deposit, the trial court may issue a direction to disburse the amount to the de-facto complainant after obtaining necessary affidavit and if the petitioners succeed in the trial, they are entitled for refund of the said amount;

(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the first petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(e)the first petitioner shall not tamper with evidence or witness either during investigation or trial;

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(f)the first petitioner shall not abscond either during investigation or trial;

(g)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the first petitioner 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]; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/01/2024

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

RR
TO

1 THE JUDICIAL MAGISTRATE NO.I
NAGERCOIL.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL.

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3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, NAGERCOIL,
KANYAKUMARI DISTRICT,

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

+1 CC to M/s.P.RAJESH, Advocate ( SR-116[I] dated 04/01/2024 )

ORDER
IN
CRL OP(MD) No.19659 of 2023
Date :03/01/2024

PKP/DD/SAR- /10.01.2024/ 6P/ 6C

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

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