



CRL OP(MD) No.22334 of 2023

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

Monday, the Eighth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.22334 of 2023

1 MOHAMMED SAJATH

2 HUMAIUN KABEER

... PETITIONERS/ ACCUSED 1&2

Vs

THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.
CRIME NO.266 OF 2023.

... RESPONDENT/COMPLAINANT

For Petitioner : MR.VIJAYENDIRAN.V 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.266 OF 2023 ON THE FILE OF
THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for



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the alleged offence under Sections 406 and 420 IPC in Crime No.266 of 2023, seek anticipatory bail.

2. The case of the prosecution is that the petitioners induced the defacto complainant to invest the share amount to the tune of Rs.66,31,500/- to run a business, however, the petitioners neither returned the share amount nor paid the commission amount. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that though the defacto complainant has invested a sum of Rs.66,31,500/- in the business, commission was paid. However, on instructions, he would submit that the petitioners are ready to deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) jointly to the credit of Crime No.266 of 2023, before the learned Judicial Magistrate, Uthamapalayam, without prejudice to their rights and contentions and the trial Court may disburse the said amount to the defacto complainant, after obtaining appropriate affidavit from the defacto complainant that if the petitioners succeed in the trial, the petitioners are entitled for refund of the said amount.



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4.The learned Government Advocate (Crl.side) appearing for the respondent Police would submit that the investigation is yet to be completed.

5. Considering the facts and circumstances of the case and the fact that the petitioners are ready to deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) jointly to the credit of Crime No.266 of 2023, before the trial Court, without prejudice to their rights and contentions, I am inclined to grant anticipatory bail to the petitioners.

6.Accordingly, the petitioners are granted anticipatory bail and they are ordered to be released on bail in the event of arrest or on their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Uthamapalayam, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)if the petitioners failed to surrender before the concerned Magistrate within a

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period of four weeks from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)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;

(c) the petitioners shall deposit a sum of Rs. Rs.20,00,000/- (Rupees Twenty Lakhs only) jointly to the credit of Crime No.266 of 2023, before the learned Judicial Magistrate, Uthamapalayam, without prejudice to their rights and contentions, within a period of four weeks from the date of receipt of a copy of this order. The trial Court may disburse the said amount to the defacto complainant, after obtaining appropriate affidavit from the defacto complainant that if the petitioners succeed in the trial, the petitioners are entitled for refund of the said amount;

(d)the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

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

(f)the petitioners 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 petitioners in accordance with



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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]; and;

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

sd/-
08/01/2024

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/01/2024

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

SSB

TO

1.THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM,

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI.

3.THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION, THENI DISTRICT.

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

ORDER IN
CRL OP(MD) No.22334 of 2023
Date :08/01/2024

RK/VR (24/01/2024) 5P / 5C

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