



CRL OP(MD) No.23104 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.23104 of 2023

1 GOPALAKRISHNAN

2 KAVITHA

3 BALASUBRAMANI

... PETITIONERS/ ACCUSED 1 TO 3

Vs

THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR,
CRIME NO. 21 OF 2023

... RESPONDENT/COMPLAINANT

RAMMOHAN ... PETITIONER/INTERVENER/DEFACTO COMPLAINANT
IN CRL.MP(MD).18280/2023 IN CRL.OP(MD).23104/2023

For Petitioner : Mr.ABRAR, Advocate
for M/S.MAHABOOB ATHIFF.M Advocate

For Respondent : Mr.P.KOTTAICHAMY, Govt. Advocate (CrI. Side)

For Intervenor : Mr.ANANDHAPADMANABHAN, Senior Counsel
for Mr.G.ARAVINTHAN, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 439 Cr.P.C.



CRL OP(MD) No.23104 of 2023

PRAYER:- FOR ANTICIPATORY BAIL IN CRIME NO. 21 OF 2023 ON THE FILE OF THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners / Accused Nos.1 to 3, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420, 120B of I.P.C. and Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 in Crime No.21 of 2023, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant borrowed a sum of Rs.3,77,11,400/- from the petitioners herein and the defacto complainant has repaid some amount and for non-payment of the balance amount, the petitioner claimed exorbitant interest from him. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have nothing to do with the alleged offence. He would further submit that the petitioners are ready to abide by any conditions imposed by this Court. He would further submit that prior to filing of the present complaint, the first petitioner instituted a suit before the Commercial Division in C.S.No.307 of 2023 and the said suit is pending. He would further submit that when the said suit is pending, this Court issued a direction to the defacto complainant/first defendant in O.A.1054 of 2023 and the A.No.6582 of 2023 to furnish the details of contractual relationship between the first defendant and the third defendant in



CRL OP(MD) No.23104 of 2023

O.A.No.1054 of 2023. In order to deprive the right of the petitioners to agitate their relief before the Commercial Division, the present false complaint is filed. Accordingly, he prays for anticipatory bail.

4. The learned Senior counsel appearing for the intervener would submit that though the suit was filed prior to the complaint, at the instigation of the defacto complainant, the respondent Police put a false case against the petitioners and even after filing of the suit, the petitioners demanded a sum of Rs.11 Crores from the defacto complainant and thereby, the defacto complainant filed a complaint before the respondent Police. At this stage, mere pendency of the civil suit will not deprive the right of the petitioners and the amount which is claimed by the petitioners is an exorbitant amount covered under the Exorbitant Interest Act. Accordingly, he prays for dismissal of this petition.

5. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that the investigation is going on.

6. The petitioners are financiers and the defacto complainant borrowed some amount for production of a movie. It is seen that already there was a dispute for non payment of the amount and the first petitioner filed a suit before the Commercial Division in C.S.No.307 of 2023 and the said suit is pending and at this stage, the defacto complainant made a complaint before the respondent Police.



CRL OP(MD) No.23104 of 2023

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7. Considering the facts and circumstances of the case and also considering the fact that already a suit is pending between the parties before the Commercial Division, I am inclined to grant anticipatory bail to the petitioners.

8. 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 fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Virudhunagar, 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 period of 15 days 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;



CRL OP(MD) No.23104 of 2023

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(c).the petitioners shall report before the respondent as and when required for interrogation;

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

(e).the petitioners shall not abscond either during investigation or trial;

(f).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]; and;

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

sd/-

10/01/2024

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



CRL OP(MD) No.23104 of 2023

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TO

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1 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR.

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

+1. CC to M/S. MAHABOOB ATHIFF.M Advocate SR.No.1175 (F) DT.11/01/2024

ORDER IN

CRL OP(MD) No.23104 of 2023

Date :10/01/2024

SA/VR/SAR. /23.01.2024/6P/6C

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