



CRL OP(MD) No.23393 of 2023

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

Thursday, the Fourth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.23393 of 2023

SIVAPRAKASH

... PETITIONER / UNNAMED ACCUSED

Vs

THE INSPECTOR OF POLICE
ANDIPATTY POLICE STATION,
THENI DISTRICT.
(CRIME NO.379 OF 2022)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.PRABU.M, Advocate

For Respondent : MR.SS.MADHAVAN, Govt. Advocate (Crl. Side)

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

PRAYER:

FOR ANTICIPATORY BAIL IN CR.NO.379/2022 ON THE FILE OF THE
RESPONDENT POLICE

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for
the alleged offence under Section 379 IPC in Crime No.379 of 2022, seeks anticipatory



CRL OP(MD) No.23393 of 2023

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2. The case of the prosecution is that on 30.09.2023, some unidentified persons have stolen the three cows from the defacto complainant's cattle shed. Hence this complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. However, on instructions, he would submit that the petitioner is ready to deposit a sum of Rs.90,000/- (Rupees Ninety Thousand only) before the trial Court, without prejudice to his 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 petitioner succeeds in the trial, liberty may be given to the petitioner for refund of the said amount

4. The learned Government Advocate (Crl.side) appearing for the respondent Police submitted that this is the second anticipatory bail application and the earlier application filed by the petitioner in Crl.O.P(MD).No.7608 of 2023 was dismissed on 24.04.2023 on the ground that the petitioner is having three previous cases which are similar in nature.

5. Admittedly, the earlier application filed by the petitioner was dismissed on 24.04.2023 on the ground that the petitioner is having three previous cases. Even after

the dismissal of the anticipatory bail application filed by the petitioner, the

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CRL OP(MD) No.23393 of 2023

respondent Police have not taken any steps to secure the accused. Considering the facts and circumstances of the case and the fact that the petitioner is ready to deposit a sum of Rs.90,000/- (Rupees Ninety Thousand only) before the trial Court without prejudice to his contentions and that on instructions, the learned counsel appearing for the petitioner submits that the trial Court may disburse the said amount to the defacto complainant after obtaining appropriate affidavit from the defacto complainant that if the petitioner succeeds in the trial, liberty may be given to the petitioner for refund of the said amount, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the petitioner 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, Andipatty, Theni District, 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 arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)if the 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



CRL OP(MD) No.23393 of 2023

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 petitioner shall make a payment of Rs.90,000/- (Rupees Ninety Thousand only) before the learned Judicial Magistrate, Andipatty, Theni District, without prejudice to his rights and contentions and the trial Court may disburse the said amount to the defacto complainant, after obtaining the appropriate affidavit from the defacto complainant that if the petitioner succeeds in the trial, he is entitled for refund of the said amount;

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

(f)the 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 petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court



CRL OP(MD) No.23393 of 2023

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/-
04/01/2024

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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,
ANDIPATTY, THENI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ANDIPATTY POLICE STATION, THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



CRL OP(MD) No.23393 of 2023

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+1 CC to M/s.M.PRABU, Advocate (SR-145[I] dated 04/01/2024)

ORDER

IN

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Date :04/01/2024

PKP/DD/SAR /29.01.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
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