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CRL O.P. No.2694 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2025

CORAM:

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL O.P. No.2694 of 2025

K. Sivakumar S/o. Kannan

... Petitioner / Accused

Vs

State rep. by:-

The Inspector Of Police,
Namakkal Town Police Station,
Namakkal District.

... Respondent

[Cr. No.36 of 2025]

PRAYER: - The Criminal Original Petition is filed under Section 482 of

B.N.S.S., praying to grant anticipatory bail to the petitioner / Accused in

Crime No.36 of 2025 on the file of the respondent police.

For Petitioner : Mr. Anbukarasu R

For Respondent : Mr. Leonard Arul Joseph Selvam,
Government Advocate
[Criminal side]

ORDER



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The petitioner / Accused, who apprehends arrest in the hands of the respondent police for the offences punishable under Sections 419, 354(A), 417, 420, 493 of IPC and Section 351(2) of B.N.S in connection with the case in Crime No.36 of 2025, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant had let his wife's house for rent to the petitioner in the year 2019; that the petitioner developed friendship with the defacto complainant's daughter; that he promised to marry her; that subsequently, in the year 2023 between August and October 2023, the petitioner had received a sum of Rs.1,55,00,000/- by cash on the promise that he would invest the said amount in business and would give huge returns and that thereafter, the petitioner neither repaid the amount nor invested the said money in any business.

3. Learned counsel for the petitioner would submit that the petitioner is innocent; that he has not committed any offence as alleged; that in fact, the defacto complainant had borrowed a sum of Rs.44 lakhs



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and had sent the said money through RTGS to the account of both the defacto complainant and his daughter; that the defacto complainant and his daughter have issued promissory notes for the said loan as security; that since the defacto complainant's daughter did not repay the money, the petitioner had filed an insolvency petition before the Sub Court, Namakkal seeking to declare the defacto complainant's daughter as 'insolvent' and only thereafter, the instant complaint was lodged. The learned counsel for the petitioner would further submit that the petitioner had given a complaint on 02.01.2025 against the defacto complainant stating that he had kidnapped the petitioner and forcibly obtained signatures in blank pronotes and stamp papers and hence prayed to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side), per contra, would submit that it is admitted that the petitioner and the defacto complainant's daughter had love affair and there was transaction between the two of them and that the petitioner had filed an insolvency petition against the defacto complainant and his daughter. The learned



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Government Advocate would further submit that the petitioner has 16 other previous cases against him and fairly admitted that, out of 16 cases, 14 cases have either been referred to or disposed of and two cases are for the offences under Sections 506(2) and 338 of IPC, pending trial.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent police and perused the materials available on record.

6. On perusal of the complaint, it is seen that the allegations against the petitioner is that he had received a sum of Rs.1,55,00,000/- as cash. The prosecution has not collected any evidence to show that as to when and how the said payment was made by the defacto complainant to the petitioner. On the other hand, the petitioner has produced the documents to show that the petitioner had sent Rs.44 lakhs through RTGS to both the defacto complainant and his daughter's account. He has also filed a copy of the insolvency petition in I.P. No.33 of 2024 filed before the Sub Court, Namakkal to substantiate that an insolvency



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petition has been filed. He has further filed a complaint against the defacto complainant on 02.01.2025.

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7. Considering the facts and circumstances of the case, this Court is of the opinion that it is for the prosecution to establish their case against the petitioner before the trial Court, further considering the nature of allegations and since the custodial interrogation of the petitioner is not required for the purpose of investigation, this Court is inclined to grant anticipatory bail to the petitioner on certain conditions.

8. Accordingly, the petitioner 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, Namakkal** 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, failing which, the



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petition for anticipatory bail shall stand dismissed and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

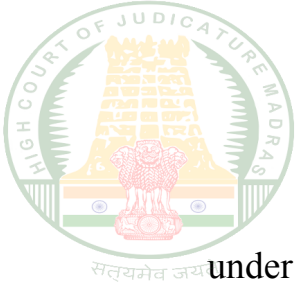
[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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 in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter abscond, a fresh FIR can be registered



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under Section 269 B.N.S.

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To

- 1.The Judicial Magistrate No.I, Namakkal.
2. The Public Prosecutor, High Court, Madras.
- 3.The Inspector Of Police, Namakkal Town Police Station, Namakkal District.

SUNDER MOHAN. J.,

mjs

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