

(2023) 11 MAD CK 0142

Madras High Court (Madurai Bench)

Case No: Criminal Original Petition (MD) No. 20845 Of 2023

S.Vallinayagam

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Nov. 21, 2023**Acts Referred:**

- Indian Penal Code, 1860 - Section 229A, 294(b), 420, 506(II)

Hon'ble Judges: V. Sivagnanam, J**Bench:** Single Bench**Advocate:** P.Rajesh, RMS.Sethuraman

Judgement

V. Sivagnanam, J

1. The petitioner, who was arrested and remanded to judicial custody on 30.09.2023 for the alleged offence punishable under Sections 420, 294(b) & 506(ii) Indian Penal Code, 1860 — Section in Crime No.438 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner borrowed a sum of Rs.10,00,000/- as a hand loan from the defacto complainant to meet their son's educational expenses. As a security, they gave two cheques and bond paper of Rs.20.

When the defacto complainant presented the cheques for collection it was bounced.

On 20.09.2023, when the defacto complainant demanded money, the petitioner and other accused abused him in filthy language and also threatened him with dire consequences. Hence the case.

3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from

30.09.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the investigation in this case is not yet completed.

5.Heard both sides and perused the materials available on record.

6.Considering the facts and circumstances and also taking into consideration the period of incarceration and taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012) 1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[i] Accordingly, the petitioner is ordered to be released on bail on condition to execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) subject to the satisfaction of the learned Judicial Magistrate, Radhapuram and on further conditions that:

(ii)the petitioner shall appear before the trial Court on summons. (iii)the petitioner shall not tamper with evidence or witness; (iv)the petitioner shall not abscond during trial.

(v) 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].

(vi)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.