



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

Tuesday, the Twenty Seventh day of January Two Thousand Fifteen

WEB COPY

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) No.1209 of 2015

SHANMUGASUNDARAM ... PETITIONER / SOLE ACCUSED

SIVASANKARAN ... INTERVENER / DE-FACTO COMPLAINANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
SIVAGANGAI.
CRIME NO.34/2014

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.P.GANAPATHI SUBRAMANIAN, Advocate

For Respondent : M/S.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl.Side)

For Intervener : M/S.P.NATARAJAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 23.06.2014 for the offence punishable under Sections 406 and 420 I.P.C. in Crime No.34 of 2014 on the file of the respondent police, seeks bail.

2. Heard the learned Counsel for the petitioner, the learned Government Advocate(Crl.Side) and the learned Counsel for the intervenor.

3. The case of the prosecution is that the defacto complainant had a contract with TANGEDCO for erecting solar power plant. For implementation of the contract, it appears that the defacto complainant and the petitioner had entered into an agreement dated 26.09.2013 on various terms and conditions. In this regard, the defacto complainant has paid a sum of Rs.23,50,000/- to the petitioner under various heads. Now it appears that the petitioner had failed to carry out his part of the contract. Under these circumstances, the defacto complainant lodged a complaint, based on which a case in Cr.No.34 of 2014 has been registered on 23.06.2014 and this petitioner was arrested by the police on 23.06.2014.



4. This Court granted interim bail to the petitioner on 22.07.2014 and referred the matter to the Mediation and Conciliation centre for talks and the petitioner has been released from the judicial custody on 24.07.2014 and the mediation talks failed. Therefore, this Court has dismissed earlier bail application in CrI.O.P.(MD)No.13524 of 2014 on 12.01.2015. During the hearing of CrI.O.P.(MD)No.13524 of 2014, the petitioner brought a hot cash of Rs.3,50,000/- and agreed to hand over the same to the defacto complainant and the defacto complainant did not agree to accept the cash, because the petitioner wanted to completely settled the entire matter at Rs.10Lakhs.

5. Pursuant to the dismissal of the bail application, this petitioner surrendered before the Judicial Magistrate on 19.01.2015 and he is in judicial custody since then.

6. The learned Counsel for the defacto complainant would submit that this petitioner has not performed his part of contract and had caused loss to the defacto complainant.

7. Be that as it may, the matter appears to be contractual and the petitioner is in incarceration for the last 30 days under two spells. Under these circumstances, I am inclined to grant bail to this petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing 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 learned Judicial Magistrate No.II, Sivagangai and on further condition that:

[a] 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.

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

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

[d] 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]**.

sd/-

27/01/2015

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.

2 THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, SIVAGANGAI.

4 THE OFFICER IN-CHARGE, SUB-JAIL, SIVAGANGAI.

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

+1. CC to M/S.P.GANAPATHI SUBRAMANIAN, Advocate SR.No.3379.

+1. CC to M/S.P.NATARAJAN, Advocate SR.No.3477.

ORDER IN
CRL OP(MD) No.1209 of 2015
Date :27/01/2015

msm 28.01.2015 p3/8c