



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

Wednesday, the Nineteenth day of August Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.12100 of 2015

K.K.KUMARAN

... PETITIONER / ACCUSED

Vs

THE STATE REP.BY THE INSPECTOR OF POLICE
CITY CRIME BRANCH, MADURAI.
(CRIME NO. 64 OF 2015)

... RESPONDENT / COMPLAINANT

A.SUGUNA DEVI

...INTERVENOR

For Petitioner : M/S.G.THIRUNAVUKKARASU Advocate

For Respondent : M/S.S.Prabha Government Advocate (Crl.Side)

For Intervenor : M/S.J.Suresh Kumar Advocagte

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

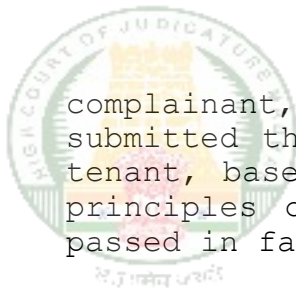
ORDER : The Court Made the following order :-

The petitioner, who is arrayed as sole accused apprehends arrest at the hands of the respondent police for the alleged offences punishable under sections 291, 193, 477 and 511 of IPC in Crime No.64 of 2015 on the file of the respondent police and hence, seeks anticipatory bail.

2.According to the prosecution, the de-facto complainant had filed a suit for partition and separate possession and in E.P.No.25 of 2011, the accused delivered possession of the property on 27.09.2013 and thereafter, he trespassed into the property and filed a suit in O.S.No.79 of 2014 for bare injunction with fabricated documents.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. The learned counsel further submitted that the petitioner entered into a rental agreement with the owner namely Amaran and as per the agreement, he is in possession and enjoyment of the same. It is further contended that challenging the decree passed in O.S.No.497 of 2004 in favour of the de-facto complainant, the petitioner has also filed a suit O.S.No.99 of 2014 for bare injunction and when both the suits are pending, this false complaint has lodged against the petitioner.

4. Mr. J. Suresh Kumar, learned counsel appearing for the intervenor submitted that the de-facto complainant had filed a suit in the year 2004 and based on the decree, the property was delivered to the de-facto



complainant, in which the accused has signed as witness. It is further submitted that even as per the case of the accused, he was inducted as a tenant, based on the agreement, dated 05.10.2010, which is clearly hit by principles of *lis pendens* and he has no right to challenge the decree passed in favour of the de-facto complainant.

5. Heard the learned Government Advocate (Criminal side) appearing for the respondent.

6. The learned counsel for the petitioner submitted that the petitioner is running a binding shop in the disputed property and he has also invested huge amount and that if six months time is granted to the petitioner, he will vacate and handover the vacant possession to the de-facto complainant. The learned counsel has also filed an affidavit of the accused, dated 19.08.2015, in which the petitioner has agreed to vacate and handover the shop within a period of six months.

7. Considering the submission made by the learned counsel for the petitioner as well as the affidavit of undertaking filed by the petitioner, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.I, Madurai and 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 Magistrate concerned and on further condition that the petitioner shall appear before the respondent police as and when required for interrogation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. Scrupulously.

9. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

10. It is made clear that the petitioner shall vacate and handed over the shop to the de-facto complainant as per the affidavit of undertaking, dated 19.08.2015 on or before 18.02.2016.

sd/-
19/08/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE, NO.I, MADURAI.
- 2 DO THRO THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- 4 THE INSPECTOR OF POLICE, CITY CRIME BRANCH, MADURAI.

+1cc to M/S. J. Suresh Kumar, Advocate in SR.No 47565
<https://hcservices.ecourts.gov.in/hcservices/>
TS/01.09.2015/2P - 6C GSV-PM/SAR -I

ORDER IN
CRL OP(MD) No.12100 of 2015
Date :19/08/2015