



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Sixteenth day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.2671 of 2015

GANESHAMOORTHY

..PETITIONER/ACCUSED No.3

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
AUTHOOR POLICE STATION,
TUTICORIN DISTRICT.
(CR.NO.7 OF 2015)

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.H. ARUMUGAM Advocate

For Respondent : Mr.P.KANNIDEVAN, Government Advocate (Crl.Side)

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

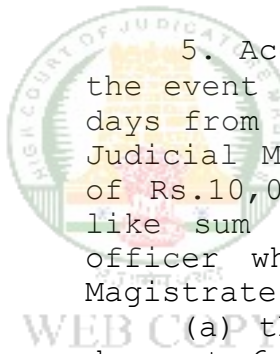
ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police in Crime No.7 of 2015, on the file of the respondent police for offences under Sections 420 and 506(ii) of the Indian Penal Code and Section 4 of Tamilnadu Prohibition of Charging Exorbitant Interest Act 2003, the petitioner is now before this Court seeking Anticipatory Bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side).

3. It is the case of the de-facto complainant that the property in question belongs to him and that he had borrowed around 6 lakhs from one Gomathinayagam and Pattani some time in the year 2010 and he executed a sale deed dated 04.08.2010 in favour of said Gomathinayagam and Pattani only as a security for the loan taken. It is the case of the de-facto complainant that the said sale is sham and nominal. It is the case of the de-facto complainant that he has paid 5% interest and has been asking Gomathinayagam and Pattani to reduce the interest amount. Gomathinayagam died on 23.12.2014. Thereafter the de-facto complainant has lodged the present complaint, which was registered on 11.01.2015. In the complaint, it is alleged that Gomathinayagam and Pattani had sold the de-facto complainant's property to the present petitioner herein and that the present petitioner threatening him of dispossession.

4. According to the learned counsel for the petitioner, the present petitioner had purchased the said property on 17.09.2014 by a valid sale deed from the said Gomathinayagam and Pattani and the revenue records have also transferred in his name. It is seen that the de-facto complainant had sold the property on 04.08.2010 to Gomathinayagam and Pattani and only on 17.09.2014, this petitioner has purchased the property. Hence, it is always open to the defacto complainant to challenge the two sale deeds in the manner known to law. Taking into
consideration the facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioner, but with conditions.



5. Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Tiruchendur, on executing a separate 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] the petitioner shall report before the respondent police, every day, at 6.30 p.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].

[e] The Inspector of Police concerned, is directed to send compliance report to the office of the learned Government Advocate as to whether the petitioner is complying with the condition or not.

sd/-

16/02/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE JUDICIAL MAGISTRATE, THIRUCHENDURA, THOOTHUKUDI DISTRICT.

2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI.

3 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

4 THE INSPECTOR OF POLICE, AUTHOOR POLICE STATION, TUTICORIN DISTRICT.

+1. CC to M/S.H. ARUMUGAM Advocate SR.No.7122

ORDER IN

CRL OP(MD) No.2671 of 2015

Date :16/02/2015

PBK 17/02/2015 ::2P-6C: