



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

Friday, the Twentieth day of March Two Thousand Fifteen
PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.3180 of 2015

M.THANGARAJ

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT.
[CRIME NO.26/2015]

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.CHANDRASEKARAN, Advocate

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

For Intervener : MR.B.JEYAKUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 477(A) and 506(i) IPC in Crime No.26 of 2015 on the file of the respondent police, seeks anticipatory bail.

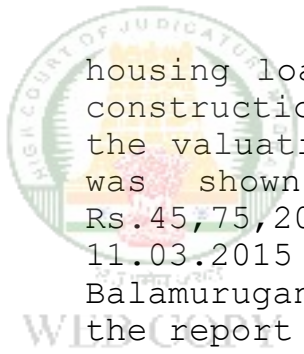
2. Heard the learned counsel for the petitioner, the learned counsel for the Intervenor and the learned Government Advocate (Crl.Side) appearing for the State.

3. On 25.02.2015, this Court granted interim anticipatory bail to this petitioner with a direction to appear before the respondent police for two weeks and with further direction to the respondent police to file a status report.

4. It is the case of the *defacto* complainant that she had decided to construct a house in her land located at Bharathipuram and engaged the services of this petitioner, who is a contractor and from time to time made payments to him totally amounting to Rs.56,00,000/-. She has alleged in the complaint that the petitioner had not properly constructed the house and had cheated to the tune of Rs.17,50,000/-.

5. Learned counsel for the *defacto* complainant has strongly opposed the grant of anticipatory bail to this petitioner, by submitting that the *defacto* complainant has paid huge sum to the petitioner, but the petitioner has put up a substandard construction.

6. Learned counsel for the petitioner submitted that the *defacto* complainant approached LIC Housing Finance Limited for



housing loan and the LIC appointed their panel valuer to value the construction. Learned counsel for the petitioner produced a copy of the valuation report, which shows that percentage of completed work was shown as 95% and the valuer has also valued it at Rs.45,75,200/-. The Investigating Officer in the status report dated 11.03.2015 has stated that he has requisitioned the services of one Balamurugan, Government Approved Engineer to value the property and the report of the Engineer is awaited.

7. In my considered view, this dispute essentially appears to be contractual one between the house owner and the builder. It is not the case of the *defacto* complainant that the petitioner, after receiving money from her, did nothing. Even according to the *defacto* complainant, the petitioner has constructed a building, but he has overcharged her.

8. Learned counsel for the petitioner submitted that the *defacto* complainant has to pay him money for the work so far done.

9. Under such circumstances, this Court is of the view that this is a fit case to grant anticipatory bail to this petitioner. 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.1, Madurai, 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 and on further condition that:

[a] the petitioner shall report before the respondent police as and when required for interrogation;

[b] the petitioner shall not tamper with the 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/-

20/03/2015

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.I, MADURAI.

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

3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, MADURAI DISTRICT

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

+1. CC to M/S.S.CHANDRASEKARAN, Advocate SR.No.13532.

ORDER IN
CRL OP(MD) No.3180 of 2015
Date :20/03/2015

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