



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

Monday, the Eighteenth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.11927 of 2016

1 JOSEPH
2 CLARA
3 PRAKASH

... PETITIONERS/ACCUSED 1 to 3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PATTUKOTTAI POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO. 319 OF 2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S K.GOKUL Advocate

For Respondent : MR.P.KANNITHEVAN, Govt. Advocate (Crl. Side)

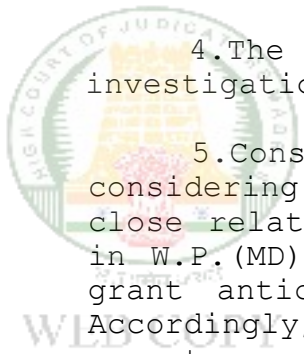
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 to 3, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 of IPC, in Crime No.319 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner is the owner of the property and agreed to sell the property to the defacto complainant for a total sale consideration of Rs.12,72,000/- and received a sum of Rs.12,00,000/- from the defacto complainant and subsequently, when the defacto complainant demanded for execution of sale deed, the petitioners failed to do so. On complaint, case has been registered for the above said offences.

3.The case of the petitioners is that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The defacto complainant is the uncle son of the first petitioner and the second petitioner is the wife of the first petitioner. The defacto complainant's father, who is the brother-in-law of the first petitioner, insisted the first petitioner to transfer the property in his name. When the first petitioner refused to do the same, he fabricated the document. He has not executed the agreement of sale and he did not receive any amount from the defacto complainant or his father. In the writ petition in W.P(MD)No.2689 of 2016 filed by the defacto complainant for specific performance of sale deed, this Court by the order dated 18.04.2016 held that only suit for specific performance is remedy.



4.The learned Government Advocate (Crl.side) submitted that investigation is pending.

5.Considering the facts and circumstances of the case and also considering the fact that the petitioners and the defacto complainant are close relatives and also the considering the order passed by this Court in W.P.(MD)No.2689 of 2016, dated 18.04.2016, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, they are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Pattukottai, on condition that each of the petitioners 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the petitioners shall report before the respondent Police as and when required for interrogation.
- (ii)the petitioners shall not tamper with evidence or witness either during investigation or trial.
- (iii)the petitioners shall not abscond either during investigation or trial.
- (iv)On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
18/07/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE,
PATTUKOTTAI,

2 DO THRO THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT.

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

4 THE INSPECTOR OF POLICE
PATTUKOTTAI POLICE STATION,
THANJAVUR DISTRICT.

+1. CC to M/S K.GOKUL Advocate SR.No.37366.

ORDER

IN

CRL OP(MD) No.11927 of 2016

Date :18/07/2016