



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.11930 of 2016

SHAHUL HAMEED

... PETITIONER / SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
THIRUVARUMBUR POLICE STATION,
TRICHY DISTRICT.
(CRIME NO.479/2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S M.SUBASH BABU Advocate

For Respondent : M/S.P.KANNITHEVAN Govt. Advocate (Crl. Side)

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 406, 294(b), 420, 506(i) of IPC, in Crime No.479 of 2016, on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the defacto complainant entered into a construction agreement and the petitioner agreed to construct the house for total sum of Rs.29,00,000/-. The defacto complainant has to pay the said amount stage by stage. While so, the petitioner received a sum of Rs.4,00,000/- and constructed only to the tune of Rs.2,00,000/-. On complaint, case has been registered for the above said offences.

3.The case of the petitioner is that as per the agreement, the petitioner constructed the first part of construction and received a sum of Rs.4,00,000/-. At the request of the defacto complainant he executed extra work worth about Rs.2,00,000/-. Not being satisfied with the construction done by the petitioner, the defacto complainant verified the building with another engineer. When the petitioner demanded the balance amount, dispute arose and the defacto complainant refused to pay the amount and the petitioner filed O.S.No.551 of 2016 claiming the damages and injunction and for production of accounts. Due to the pendency of the civil suit, the defacto complainant has given a false complaint against the



petitioner. The petitioner is innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case.

4.The learned Government Advocate (Crl.side) submitted that both the petitioner and the defacto complainant entered into a construction agreement and subsequently after one stage, not being satisfied with the work done by the petitioner, the defacto complainant valued the construction by the private engineer and dispute arose. On complaint, case has been registered and the investigation is pending.

5.Considering the nature of allegations and also considering the fact that the suit filed by the petitioner is pending, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, the petitioner 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.VI, Trichy, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the petitioner shall report before the respondent Police daily at 06.00 p.m. until further orders.
- (ii)the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iii)the petitioner 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 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]**.

5.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioner is complying with the conditions or not.

sd/-
18/07/2016

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.IV, TRICHY.

2 DO THRO THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE, THIRUVARUMBUR POLICE STATION,
TRICHY DISTRICT.

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

+1. CC to M/S M.SUBASH BABU Advocate SR.No.37658

ORDER

IN

CRL OP(MD) No.11930 of 2016

Date :18/07/2016

SDR/ARK-PV/SAR III/27/07/2016/3P/6C