



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

Tuesday, the Seventh day of February Two Thousand Seventeen

PRESENT

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

CRL OP(MD) No.18635 of 2016

KUMAR

... PETITIONER / SOLE ACCUSED

Vs

S.THANGADURAI

.. PETITIONER/INTERVENER

THE STATE REP BY
THE INSPECTOR OF POLICE,
THIRUCHULI POLICE STATION,
VIRUDHUNAGAR DISTRICT
(CRIME NO.329 OF 2015)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.G.MARIMUTHU Advocate

For Respondent : MR.V.RAJARAJAN, Govt. Advocate (Crl. Side)

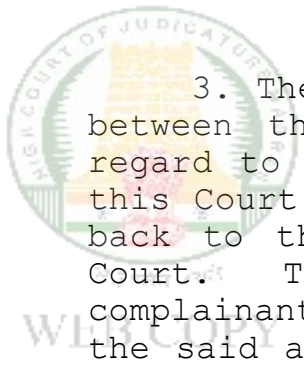
For Intervenor : Mr. S.T.SASIDHARAN TAMIL KANI, Advocate.

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 offences punishable under Sections 420, 379, 506(i) I.P.C. and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, in Crime No.329 of 2015, on the file of the respondent police and hence, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner agreed to purchase the lands in S.Nos.400/1, 400/2 and 400/3A of Thiruchuli Village to an extent of nine acres belonging to the de-facto complainant for a total consideration of Rs.1,55,00,000/- and paid a sum of Rs.21,01,000/- as advance. Subsequently, the petitioner did not pay the balance sale consideration, in spite of repeated demand and reminder. When the de-facto complainant demanded the balance amount, the petitioner refused to pay the balance sale consideration. On 21.08.2015, when the de-facto complainant visited the lands, the petitioner removed sand from the de-facto complainant's land and adjacent Government land to the tune of Rs.5 Crores and when the de-facto complainant enquired about the same, he threatened him with dire consequences and to murder him. On complaint, case has been registered for the abovesaid offences.



3. The case of the petitioner is that there is a civil dispute between the de-facto complainant and one Nagalingam Pillai with regard to the lands in question. The Civil proceedings went upto this Court and in the Second Appeal, this Court remanded the matter back to the trial Court and the same was remanded to the trial Court. The trial Court rendered judgment against the de-facto complainant and aggrieved over the same, he preferred an appeal and the said appeal is pending. Suppressing these facts, the de-facto complainant entered into an agreement of sale with the petitioner. The de-facto complainant trying to give criminal colour to the civil dispute. The petitioner is innocent and he has not committed any offence as alleged by the prosecution.

4. The learned counsel for the intervenor submitted that there are several cases pending against the petitioner and the de-facto complainant has given number of complaints against the petitioner before the respondent police and the respondent police has not taken any action against the petitioner.

5. The learned Additional Public Prosecutor submitted that in all the previous cases pending against the petitioner, he obtained anticipatory bail and investigation is going on.

6. The contention of the learned counsel for the intervenor is that the de-facto complainant has given number of complaints against the petitioner. However, there is no record to show that he has given complaints against the petitioner before the respondent police and the respondent police has not taken any action against the petitioner.

7. Considering the facts and circumstances of the case and also considering the fact that in previous cases pending against the petitioner, he was granted anticipatory bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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, Arupukottai, 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 10.00 a.m. and 05.00 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].

8. 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/-
07/02/2017

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE,
ARUPUKOTTAI. VIRUDHUNAGAR DISTRICT.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILIPUTHUR.
- 3.THE INSPECTOR OF POLICE,
THIRUCHULI POLICE STATION,
VIRUDHUNAGAR DISTRICT
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

+1. CC to M/S.S.T.SASIDHARAN TAMILKANI Advocate SR.No.6790

+1cc to M/S.G.MARIMUTHU, ADVOCATE SR.No. 6758

SMN
MS/CM.MSA/10.2.2017/3P.7C

ORDER
IN
CRL OP(MD) No.18635 of 2016
Date :07/02/2017