

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.25338 of 2017

& CRL.MP.NO.25338 OF 2017

MANIKANDAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
AMBATTUR POLICE STATION, (CRIME),
CHENNAI, CR.NO.2801 OF 2017.

[RESPONDENT]

K.V.RATHINAM

[PETITIONER / INTERVENER /
DEFACTO COMPLAINANT]

[Ordered as per order of this Court dated 29/06/2018 made in
CRL.MP.NO.15566 OF 2017 IN CRL.OP.NO.25338 OF 2017]

For Petitioner : MR.AR.SUNDARESAN SENIOR COUNSEL FOR
M/S.AL.GANTHIMATHI Advocate

For Respondent : MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR

For Intervenor : M/S.R.JOHN SATHYAN Advocate

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

ORDER : The Court Made the following order :-

This Criminal Original Petition was disposed of on 29.06.2018 in open Court and the petitioner was granted anticipatory bail and at that time, when the order was placed for signature, this Court needed some clarification with regard to the submission made by the defacto complainant that there was a telephonic conversation in between the petitioner and the defacto complainant with regard to the certain payments and thereby it was posted today "For Clarification" and further the condition was imposed on the petitioner after hearing both sides.

2. The petitioner seeks anticipatory bail in Crime No.2801 of 2017 registered by the respondent police for the offence punishable under Sections 420, 465, 467, 468, 471 of IPC.

3. The case of the prosecution as per the de-facto complainant one Rathinam is that he got a land measuring 93 cents in Korattur Village, Thiruvallur District and that he had got possession of it

through a Settlement Patta in survey No.162 granted by the Government during the year 2001. Since agriculture was stopped, he had applied for patta 10 years back, but he had not received the same. Thereafter, the defacto complainant approached the petitioner/accused Manikandan, who was working as Deputy Tahsildar and paid an amount of Rs.25,00,000/- to get patta. The further allegation is that after receiving the amount of Rs.25,00,000/-, the petitioner had issued a fabricated patta.

4. The learned Senior counsel appearing for the petitioner would submit that the so called patta had been issued on 14.01.2016 and the patta had been issued by some other officer and that the petitioner was not the authorised officer during the relevant period to issue patta. He would also submit that the petitioner had not received any amount as alleged by the defacto complainant and that a false complaint has been given for the reasons unknown to him. He would further submit that the petitioner was earlier working as Deputy Tahsildar in Ambattur and thereafter, he has been posted and working as Special Tahsildar at Chennai Corporation and he is now on medical leave.

5. The learned counsel for the intervenor vehemently opposed to grant the anticipatory bail stating that the petitioner had received an amount of Rs.25,00,000/- from the defacto complainant for issuing the patta in favour of the defacto complainant and thereafter, cheated the defacto complainant by issuing a fabricated patta. The learned counsel would submit that the intervenor has got recordings of telephonic conversations to the effect that there was money transactions between the petitioner and the defacto complainant.

6. The learned Additional Public Prosecutor would submit that the case of the prosecution is that the petitioner, who was working as a Deputy Tahsildar during the relevant period at Ambattur Tahsildar Office, received an amount of Rs.25,00,000/- and issued fabricated patta in favour of the defacto complainant and thereafter, cheated him. He would further submit that the case has been registered during the year 2017 and the investigation is pending.

7. Taking into consideration the facts of the case and the submissions made by the counsels and that the matter is pending from the year 2017 and that the petitioner is in Government Service and that no steps have been taken by the respondent to arrest him till date, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

8. 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, Ambattur, 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 said Magistrate, on

further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent police daily at 10.30.a.m., until further orders.

[c] the petitioner shall co-operate with the respondent in his investigation in respect of the alleged telephonic conversation stated by the defacto complainant by providing his voice samples.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
29/06/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
AMBATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
AMBATTUR POLICE STATION, (CRIME)
CHENNAI

+2CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges SR NO.12107, 11998

CRL OP.25338/2017
& CRL.MP.NO.25338 OF 2017

Date :29/06/2018

MK:09/07/2018