



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

Wednesday, the Twenty Fourth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1133 of 2018

1 KATHIRESAN CHETTIYAR
2 KAMALA AACHI

... PETITIONER/ACCUSED No.1&2

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
DEVAKOTTAI TOWN POLICE STATION,
DEVAKOTTAI,
CRIME NO.301/2017

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.K.BAALASUNDHARAM Advocate

For Respondent : M/S.A.ROBINSON, Government Advocate (Crl.Side)

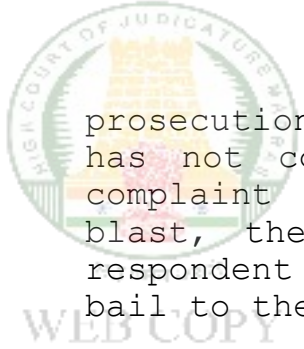
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who are arrayed as A1 & A2, apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 294(b), 406, 420 and 506(ii) of IPC in Crime No.301 of 2017, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant being an engineer has constructed houses to the petitioners as agreed and after completing the construction work, the defacto complainant demanded the petitioners to pay the balance amount of Rs.35 lakhs. But, the petitioners refused to pay the balance amount and threatened the defacto complainant. Hence, the defacto complainant lodged a complaint before the respondent police.

3.The learned counsel appearing for the petitioners
<https://hcservices.tn.gov.in/hcservices> the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners have not committed any offence as alleged by the



prosecution. He further submitted that since the defacto complainant has not completed the work as agreed, the petitioners lodged a complaint against the defacto complainant and hence, as counter blast, the defacto complainant lodged this complaint before the respondent police and hence, he pleads for grant of anticipatory bail to the petitioners.

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

5.The submissions made by either side are considered. It is alleged that in the year of 2015, the defacto complainant and the petitioners entered into an agreement for construction of houses. Due to which, some disputes arised between them, for which, both parties exchanges the notices, in the year 2015 itself. The alleged offence was happened only in the month of February 2015 when the petitioners came to India. On thorough reading of entire averments made in the FIR, the defacto complainant has not stated any thing about the transaction details. He alleged about abuse made by the petitioners only.

6.Taking all the above said aspects into consideration and having regard to the nature of offence, this Court comes to the conclusion that in order to complete the investigation, custodial interrogation is not necessary. Accordingly, 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, Devakottai, on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 daily at 10.00 a.m. until further orders;
- (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 anticipatory bail granted to the petitioners shall stand automatically cancelled and 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]**.

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24/01/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE, DEVAKOTTAI
- 2 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
DEVAKOTTAI TOWN POLICE STATION,
DEVAKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.BAALASUNDHARAM Advocate SR.No.1365

ORDER
IN
CRL OP(MD) No.1133 of 2018
Date :24/01/2018

PK/RR/SAR-1/31.01.2018 : 3P/6C