



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

Monday, the Twenty Second day of January Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.927 of 2018

M.SUBRAMANIYAN

... PETITIONER/ACCUSED No.1

Vs

STATE REP.BY,
THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.08 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.JOTHIBASU 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 :-

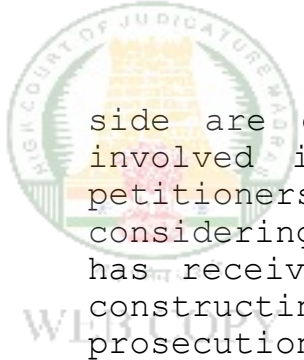
The petitioner, who is arrayed as accused No.1, apprehending arrest at the hands of the respondent police for the offence punishable under Sections 420, 465, 467, 468, 471 r/w 34 of IPC., in Crime No.8 of 2017, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the accused persons had constructed a house in the property, which was gifted by their ancestor Vellaiyan Chettiyar to Arulmighu Balaganapathy Vinayagar Temple by way of gift deed, by obtaining subsidy of Rs.93,000/- each from the Virudhunagar Municipality. On knowing that the defacto complainant has lodged a complaint before the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution. He further stated that the accused 2,3,4,5,6 and 8 were granted with anticipatory bail by this Court.

4.The learned Government Advocate (Criminal Side) would submit that the land was gifted by their ancestor and now the accused persons by claiming that it was belonged to them obtaining the subsidy amount of Rs.93,000/- from the Government.

5.The submissions made by the learned counsel on either



side are considered. Totally there are 8 accused persons were involved in this offence and except this petitioner all other petitioners are granted with anticipatory bail by this Court. Now considering, the facts of the case it is alleged that the petitioner has received a sum of Rs.93,000/- as subsidy for the purpose of constructing house in a property. As per the case of the prosecution the property belongs to the temple authorities. So the question to be decided with this aspect is whether the petitioner has knowledge at the time of receiving the subsidy and for this the answer is available only at the time of trial.

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 for these type of cases. Accordingly, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, he 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 No.II, Virudhunagar, on condition that the petitioner 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 petitioner shall report before the respondent Police, daily at 10.00 a.m. for a period of three weeks and thereafter as and when required for interrogation;
- (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 anticipatory bail granted to the petitioner shall stand automatically cancelled and 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]**.

sd/-

22/01/2018

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TO

1 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR DISTRICT

2 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.

3 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.

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

+1. CC to M/S.M.JOTHIBASU Advocate SR.No.1144

ORDER
IN
CRL OP(MD) No.927 of 2018
Date :22/01/2018

PK/CM/SAR-1/29.01.2018 : 3P/6C