



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

Friday, the Fifth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.10374 of 2017

1 THAYUMAN
2 RAJALAKSHMI

... PETITIONERS/ACCUSED NO.1&2

Vs

THE STATE THROUGH
THE INSPECTOR OF POLICE
CITY CRIME BRANCH,
TRICHY DISTRICT.
CR NO.31/2017.

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.P.GANAPATHI SUBRAMANIAN Advocate

For Respondent : MR.K.S.DURAI PANDIAN, Additional Public prosecutor

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

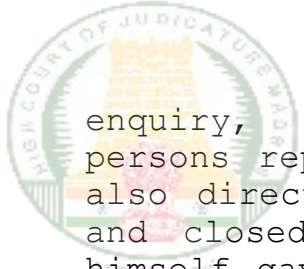
ORDER : The Court Made the following order :-

Heard both side.

2.The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 406 and 420 I.P.C., in Crime No.31 of 2017, seeking relief to grant of anticipatory bail.

3.The case of the prosecution is that the defacto complainant entered into an sale agreement with the second petitioner in the year 2012 for the purpose of purchasing certain lands for a sum of Rs.19,03,200/-, for which, the defacto complainant had paid a sum of Rs.15,00,000/- towards advance to the petitioners. Thereafter, the petitioners/accused persons mortgaged the property in the HDFC Bank, Trichy and they failed to execute the sale agreement. Hence, the defacto complainant lodged a complaint before the respondent police.

4.The learned counsel appearing for the petitioners submitted that the defacto complainant lodged a complaint before the Superintendent of Police, Pudukkottai against the petitioners and the Inspector of Police, District Crime Branch, Pudukkottai vide his summons dated 15.11.2016 in Na.Ka.No.427/DCB/PDK/2016 and prays to direct the petitioners/accused persons to appear for enquiry. After



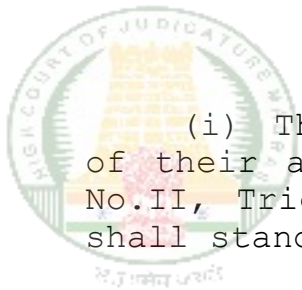
enquiry, came to the conclusion that the petitioners/accused persons repaid the advance amount, which was received by them and also directed the defacto complainant to approach the civil Court and closed petition preferred by him. The defacto complainant himself gave a statement that he will approach the competent Civil Court. He further submitted that by suppressing the earlier complaint, the defacto complainant lodged a fresh complaint before the Commissioner of Police, Trichy and then filed a private complaint before the Judicial Magistrate No.II, Trichy. When the petitioners/accused persons received summons from the respondent police, they had filed a petition for seeking anticipatory bail. Hence, he prays for granting anticipatory bail.

5.The learned Counsel for the intervenor submitted that after the receipt of Rs.15,00,000/-, the said petitioners/accused persons had delayed the registration of the sale deed document in favour of the defacto complainant and mortgaged the same in the HDFC Bank Ltd., Trichirappalli. Thereafter, they replied to the defacto complainant that they will redeem the mortgage and execute the sale deed in favour of the defacto complainant. But, the petitioners/accused persons are not in a position to execute the sale deed in favour of the defacto complainant. Due to that, the defacto complainant filed a private complaint before the Judicial Magistrate No.II, Trichirappalli and the Judicial Magistrate directed the first respondent to register a case and enquired the petitioners/accused persons. Then only, on apprehension, the petitioners/ accused persons filed an anticipatory bail before this Hon'ble Court. Hence, he vehemently opposed to grant anticipatory bail to the petitioners/accused persons.

6.The learned Additional Public Prosecutor submitted that on 03.02.2012, the second petitioner herein executed a sale agreement in favour of the defacto complainant. Subsequently, on 06.02.2014, the same property was mortgaged with the HDFC Bank by the second petitioner without informing the same to the defacto complainant. Due to the consequence of the said act, the defacto complainant lodged a complaint before the learned Judicial Magistrate and thereafter, the case was registered.

7. Considering the submissions on either side, it appears that the evidence to be collected in order to complete the investigation, which are all available in the form of documents. Hence, completing the investigation, custodial interrogation is not necessary. Petitioners are having the permanent residence address, which is mentioned in the petition and hence question of absconding does not arise.

8. Accordingly, considering the above facts and circumstances of the case and having regard to the nature of offence, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:-



(i) The petitioners are granted anticipatory bail in the event of their arrest or on their surrender before Judicial Magistrate No.II, Trichy on or before 23.01.2018, failing which, the petition shall stand dismissed automatically.

(ii) On such arrest or surrender, the petitioners are ordered to be enlarged on bail on executing a bond for Rs.25,000/- each with two sureties for a like sum each to the satisfaction of the Judicial Magistrate No.II, Trichy.

(iii) **The petitioners are directed to appear before the respondent / police daily at 10.00 a.m. for a period of three weeks.**

(iv) The petitioners shall make themselves available for interrogation as and when required by the investigation officer.

(v) 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].

sd/-

05/01/2018

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

TO

1 THE JUDICIAL MAGISTRATE NO.II, TRICHIRAPPALLI

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TRICHIRAPPALLI DISTRICT

3 THE INSPECTOR OF POLICE
CITY CRIME BRANCH, TRICHY DISTRICT

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

+1. CC to M/S.P.GANAPATHI SUBRAMANIAN Advocate SR.No.248

GJM/VC/SAR-2-11.1.18-3P-6C

ORDER

IN

CRL OP(MD) No.10374 of 2017

Date : 05/01/2018