



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

Thursday, the Fourth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.18026 of 2017

1 T.DIVAKAR
2 THIRUGNANASAMPATHAM ... PETITIONERS/ACCUSED NO.1 & 2
Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE,
SAMAYAPURAM POLICE STATION, TRICHY DISTRICT.
(CRIME NO.349 OF 2017) ... RESPONDENT/COMPLAINANT
2 GIRIJA ... RESPONDENT/DEFACTO COMPLAINANT

For Petitioners : M/S.V.KARUNA Advocate
For Respondent 1 : MR.K.S.DURAI PANDIAN Additional Public Prosecutor
For Respondent 2 : Not appeared

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

ORDER : The Court Made the following order :-

The petitioners/ A-1 and A-2, who apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 406, 420, 294(b) and 506(i) of IPC in Crime No.349 of 2017 on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that the first petitioner is a Civil Engineer, he executed a written agreement with the defacto complainant for constructing a house. She gave a sum of Rs.35 Lakhs. But, the first petitioner by using low quality materials and kept the building as incomplete stage and hence, the present complaint is preferred.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent, law abiding citizen and they have not committed any such offence alleged by the respondent police.

4. The learned Additional Public Prosecutor submitted that investigation is pending.

5.In view of the submissions made on either side it reveals the fact that the offence under Sections 406, 420, 294(b) and 506(i) of IPC have been registered against the petitioners and the petitioners herein are the contractor by profession made contract with the defacto complainant for construction of a house and while constructing the house, a dispute has arose between them and the present case was registered. So in order to complete the investigation nothing has to be recovered by way of custodial interrogation.



6. Taking all the above said aspects into consideration 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.III, Trichy on or before 18.01.2018, 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.III, Trichy.

(iii) The petitioners are directed to appear before the respondent / police daily at 10.00 a.m. for a period of two 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 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/-
04/01/2018

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE,
SAMAYAPURAM POLICE STATION, TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.KARUNA Advocate SR.No.129

ORDER IN
CRL OP(MD) No.18026 of 2017
Date : 04/01/2018