



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

Tuesday, the Second day of January Two Thousand Eighteen

PRESENT

**The Hon`ble Mr.Justice R.PONGIAPPAN**

CRL OP (MD) No.15369 of 2017

V.GURUNATHAN

... PETITIONER / ACCUSED NO.1

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH,  
THENI DISTRICT.  
CRIME NO. 18/2017.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.R.MAHESWARAN, Advocate  
For Respondent : M/S.K.S.DURAI PANDIAN, Additional Public Prosecutor  
For Intervenor : M/S.M.S.JAYAKARTHIK, Advocate

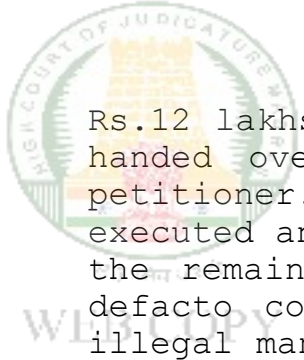
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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 294(b), 323, 120 B, 406, 420 and 506(ii) of IPC, in Crime No.18 of 2017, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioner is the younger brother of defacto complainant. The defacto complainant has been allotted with the property in Survey No.257/2B, 257/3 measuring about 1.20 acres in a oral partition among the family members. In the year 2013, the petitioner expressed his desire to buy the said property for a consideration of Rs.24 lakhs and paid a sum of Rs.4 lakhs in advance and now the petitioner is in possession of the said property. The petitioner neither paying the remaining 20 lakhs nor allowing the defacto complainant to enter into the said property on the other hand have threatened the defacto complainant as well as his lessee with dire consequences.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and did not commit any offence as alleged by the prosecution. It is admitted that the above said property has been allotted to the share of the defacto complainant. The defacto complainant entered into a sale agreement to sell the above said property to the petitioner for a total consideration of



Rs.12 lakhs. On the receipt of Rs.6 lakhs, the defacto complainant handed over the possessions of the above said property to the petitioner. However, till today the defacto complainant have not executed any sale deed. The petitioner was ready and willing to pay the remaining amount of Rs.6 lakhs. The above complaint by the defacto complainant is only to dispossess the petitioner in an illegal manner. Since the above said issue is only a civil dispute the petitioner has filed a suit for specific performance before the District Court, Theni in O.S.No.85/2017 and the defacto complainant is trying to give a criminal colour to a civil dispute.

4.The learned Additional Public Prosecutor submitted that the petitioner threatened the defacto complainant. Hence, based on the complaint lodged by the defacto complainant the case was registered against the petitioner.

5.Considering the submissions made on either sides, it is known that the case was registered for the offences under Section 294(b), 323, 120B, 406, 420 and 506(ii) IPC. Admittedly, the defacto complainant and the petitioners are the brothers. The alleged offence was happened due to the oral agreement for purchasing the property owned by the defacto complainant. Both parties are willing to settle the matter before mediation. Hence, the learned District Judge, Theni, is directed to refer the matter in O.S.No.85 of 2017 on the file of the District Court, Theni to Mediation and get a report within a period of one month. Till then this Court is inclined to grant Interim anticipatory bail to the petitioner. Accordingly, interim anticipatory bail is granted to the petitioner till 02.02.2018. The petitioner is directed to be enlarged on bail in the event of arrest or on their appearance before the Judicial Magistrate, Theni and on further condition that:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 02.02.2018, the petitioners shall appear before the concerned Court of Jurisdiction and file a petition to re-call the warrant before the said Court.

sd/-  
02/01/2018

/ TRUE COPY /



TO

1. THE DISTRICT JUDGE, THENI.

2. THE JUDICIAL MAGISTRATE, THENI.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI.

4. THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH, THENI DISTRICT.

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

+1. CC to M/S.R.MAHESWARAN Advocate SR.No.32

ORDER

IN

CRL OP(MD) No.15369 of 2017

Date :02/01/2018

**MS/PM-PN/SAR.4/04.01.2018/3P.7C**