



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

Thursday, the Seventh day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.1452 of 2019

1 G.BALAMURUGAN
2 SAKTHIMAYIL

... PETITIONERS / ACCUSED
RANK NOT KNOWN

Vs

THE STATE REP. BY ITS,
THE INSPECTOR OF POLICE (CRIME
D2-SELLUR POLICE STATION,
MADURAI DISTRICT
(CRIME NO.NOT KNOWN OF 2019)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.J.JEYAKUMARAN Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

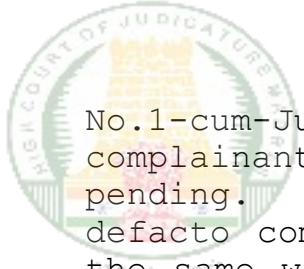
For Intervener : MR.A.VADIVEL, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 420 and 506 (ii) IPC in Cr.No.Not Known of 2019 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners, who are owning a property, entered into a sale agreement with the defacto complainant. The sale consideration is Rs.25,75,000/- (Rupees Twenty Five Lakhs and Seventy Five only) and the petitioners received advance amount of Rs.18,05,000/- (Rupees Eighteen Lakhs and Five Thousand only) from the defacto complainant. Thereafter, the defacto complainant issued cheque for Rs.8,70,000/- (Rupees Eight Lakhs and Seventy Thousand only) in favour of the petitioners. Thereafter, the petitioners submitted the cheque before the Bank and the same was dishonoured. In this regard, the petitioners filed a petition under Section 138 of Negotiable Instrument Act r/w Section 200 Cr.P.C against the defacto complainant and the same was numbered in STC.No.347 of 2018 on the file of the learned Fast Track Court



No.1-cum-Judicial Magistrate, Madurai. For which, the defacto complainant is appearing before the trial Court and the same is pending. While so, on the strength of the power of attorney, the defacto complainant executed an agreement with third person. When the same was known by the petitioners, they cancelled the power of attorney, which is executed in favour of the defacto complainant. Thereafter, the defacto complaint filed a complaint against the petitioners before the respondent police.

3. The learned counsel appearing for the petitioners would submit that the petitioners are ready to refund the amount of Rs.18,05,000/- (Rupees Eighteen Lakhs and Five Thousand only) to the defacto complainant, which was received by the defacto complainant, within a period of two weeks. Thereafter, the defacto complainant may be directed to return all the original documents (ie., original title deeds, paren deed and all the receipts of the Bank details, which was paid by the defacto complainant in favour of the petitioner for clearing the Bank dues and clear the encumbrance, if any made in respect of the property). He further submitted that the petitioners also undertake to withdraw the case filed against the defacto complainant under Section 138 of Negotiable Instrument Act.

4. The learned counsel appearing for the intervenor would submit that he agreed to the petitioners' proposal and on the date of receipt of the said amount, he will ready to hand over the entire documents as requested by the petitioners' counsel and also if any encumbrance, he will undertake to clear the encumbrance.

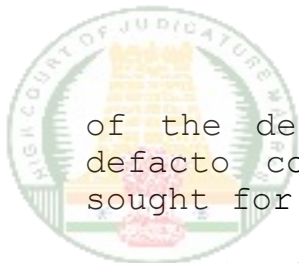
5. Heard the learned Government Advocate (Crl.side) appearing for the State.

6. Considering the facts and circumstances of the case and also considering the undertaking made by both parties, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners 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 No.2, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners are directed to deposit a sum of Rs.18,05,000/- (Rupees Eighteen Lakhs Five Thousand only) in favour



of the defacto complainant and after receiving that amount, the defacto complainant shall produce all the original documents as sought for by the petitioner ;

(c) the first petitioner shall report before the respondent police daily at 10.30 a.m. , until further orders and the second petitioner shall report before the respondent police as and when required for interrogation;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, 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]**; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

07/02/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO II, MADURAI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
MADURAI
- 3 THE INSPECTOR OF POLICE
D2-SELLUR POLICE STATION, MADURAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to MR.J.JEYAKUMARAN Advocate SR.No.2740

+1. CC to MR.A.VADIVEL, Advocate SR.No.2588

ORDER IN

CRL OP(MD) No.1452 of 2019

Date : 07/02/2019