



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

Friday, the Eighth day of February Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.2054 of 2019

K.ESAKKI SUNDAR

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
COURTALAM POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.53/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.PAKALAVAN Advocate

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

For Intervener : MR.S.BALAJI, Advocate
for MR.R.ANAND, Advocate

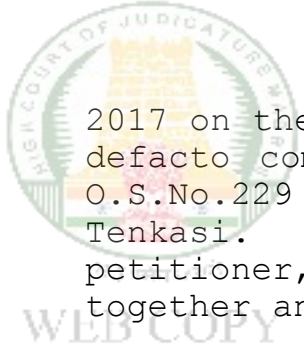
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 448 and 380 I.P.C. in Cr.No.53 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.It is the case of the prosecution that the defacto complainant entered into a lease agreement with one Iyappan. Thereafter, he went to Chennai and started to reside there. On 29.01.2019, one Akilan informed the defacto complainant through phone that his house was broken open by some unknown persons. They also damaged the house hold articles. Hence, the present complaint has been made.

3.The learned counsel for the petitioner would submit that initially the property belong to one Iyappan. The said Iyappan borrowed money from the petitioner, for which the petitioner filed a suit for recovery of possession in O.S.No.219 of 2015 on the file of the Sub Court, Tenkasi. The said suit was decreed. Thereafter, the petitioner filed I.A.No.438 of 2015 for attachment before judgment before the trial Court. In the meanwhile the petitioner purchased the property from one Iyappan on 02.11.2017 vide document No.3358 of



2017 on the file of Sub Registrar Office, Tenkasi. Thereafter, the defacto complainant also filed a suit for permanent injunction in O.S.No.229 of 2016 on the file of the Additional District Munsif, Tenkasi. The said suit was dismissed. In order to cheat the petitioner, the defacto complainant and the Iyappan colluded together and made a false complaint.

4.The learned counsel for the intervenor would submit that while he entered into an lease agreement with the Iyappan for the house, the petitioner has entered into the house by break open the door and also damaged the house hold articles and he vehemently oppose for grant of bail.

5.Considering the facts and circumstances of the case and also considering the nature of the offence, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, the petitioner 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, Chenkottai, Tirunelveli District on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) 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 petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police as and when required for interrogation;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)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;

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

sd/-

08/02/2019

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE,
CHENKOTTAI, TIRUNELVELI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE INSPECTOR OF POLICE,
COURTALAM POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1 CC to M/s.S.PAKALAVAN, Advocate (SR-2710 dated 08/02/2019)

ORDER

IN

CRL OP (MD) No.2054 of 2019

Date :08/02/2019

JM/PN/SAR 4/15.02.2019/3P/6C