



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

Thursday, the Twenty Seventh day of June Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.6694 of 2019

1 BUDHMAL BOHRA

2 SARALA DEVI

... PETITIONERS / ACCUSED
(RANK NOT KNOWN)

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THILLAINAGAR POLICE STATION,
TRICHY DISTRICT.
CRIME NO. NOT KNOWN OF 2019

... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.SUNDAR Advocate

For Respondent : MR.V.NEELAKANDAN, Additional Public Prosecutor

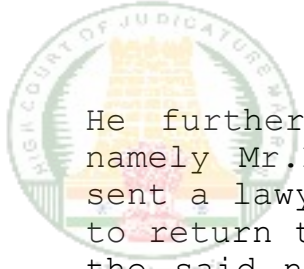
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420 and 506 (ii) of IPC, in Crime No.not known of 2019, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that as per the flat booking agreement, the father of the defacto complainant has to pay a sum of Rs.81,56,220/- for purchasing a particular flat and in pursuance of the said agreement, the said purchaser paid only Rs.55 lakhs and the balance amount has not been paid. However, the petitioner has completed the construction of building and he informed the purchaser on 27.12.2014 and also on 22.06.2015 stating that the building has been ready for occupation and calling upon him to pay the balance amount and to take possession. But the said purchaser has not come forward to pay the balance amount and also to take possession of the building. Hence, the petitioner has mortgaged the said flat to L & T finance.

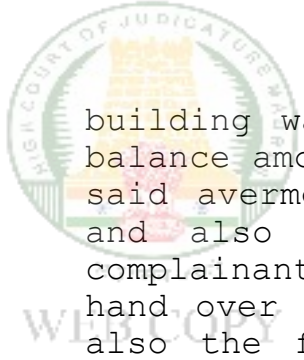


He further submitted that after the death of original purchaser namely Mr. Dheenadhayalan, his son/defacto complainant has suddenly sent a lawyer notice to the petitioners on 26.04.2019 demanding them to return the amount of Rs.55 lakhs with 12 % interest and even in the said notice he has stated that he is ready to pay the balance amount and to take possession of the building and hence, the petitioners sent a reply notice to the defacto complainant on 02.05.2019, stating that even in the year 2014 itself, they have informed his father, stating that the building is ready for occupation and calling upon him to pay the balance amount and to take possession of the building, but, denying the same, the defacto complainant has not sent any rejoinder. He further submitted that already the defacto complainant has lodged a complaint and when the said complaint was not registered as FIR, the petitioners have moved anticipatory bail application before this Court in Crl.O.P(MD) No.6694 of 2019 and this Court also granted interim anticipatory bail and thereafter, the present complaint has been lodged before the CCB and the said complaint is also so far not registered. He further submitted that even now if the defacto complainant paid the balance amount, the petitioners are ready to execute the sale deed in his favour and also clear the mortgage and therefore, he prayed for anticipatory bail to the petitioners.

4. The learned counsel for the intervenor in Crl.OP(MD) No.6983 of 2019 has submitted that the defacto complainant's father has paid a sum of Rs.55 lakhs even in the year 2014 and thereafter, he was eagerly awaiting for information from the petitioner with regard to the completion of flat. But, the petitioners have not sent any intimation with regard to the completion of flat. On the contrary, the petitioners have mortgaged the property in favour of one L & T Finance and thereby the petitioners were trying to cheat the defacto complainant's father. He further submitted that only after the death of the defacto complainant's father, the defacto complainant came to know the aforesaid facts and hence, he immediately sent the lawyer notice on 26.04.2019 calling upon the petitioners to return the amount of Rs.55 lakhs with interest on the said amount. But, they have sent reply notice with false averments and it shows that the petitioners don't want to return the amount and therefore, he opposed to grant anticipatory bail to the petitioners.

5. The learned Additional Public Prosecutor appearing for the respondent has adopted the submission made by the learned counsel for the Intervenor. However, he submitted that the said complaint is still pending for enquiry and therefore, he strongly opposed this petition.

6. Taking into consideration of the aforesaid fact that even though the learned counsel for the Intervenor denied the notice sent by the petitioner on 27.12.2014 and 22.06.2015, in the reply notice dated 02.05.2019, which has been sent by the petitioners, it is specially stated by the petitioners that even in the year 2014 itself, they informed the father of the defacto complainant as the



building was ready for occupation and called upon him to pay the balance amount and take possession of the building, but, denying the said averment, the defacto complainant has not sent any rejoinder and also considering the fact that even now if the defacto complainant paid the balance amount, the petitioners are ready to hand over the possession of the plot with free of encumbrance and also the fact that the previous complaint was lodged before the Thillai Nagar Police Station and at that time, the petitioners got interim anticipatory bail from this Court and thereafter, the second complaint has been lodged before the CCB, this Court is inclined to grant anticipatory bail to the petitioners by imposing conditions.

7. Accordingly, the petitioners in 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.4, Trichy, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, 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].

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

sd/-

27/06/2019

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.4,
TRICHY.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE,
THILLAINAGAR POLICE STATION,
TRICHY DISTRICT.

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

+1. CC to M/S.R.SUNDAR Advocate SR.No. 10654

ORDER

IN

CRL OP(MD) No.6694 of 2019

Date :27/06/2019

JM/JC/SAR 4/10.07.2019/4P/6C