



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

Date : 27/08/2019

PRESENT

The Hon'ble Justice P.RAJAMANICKAM

CRL OP (MD) . No.9576 of 2019

1. Kathiresan
2. Deviprasath
3. Manivannan

... Petitioners/Accused No.1,2 and 4

Vs

The State rep.by,
The Inspector of Police,,
Aaviyur Police Station,
Virudhunaagar District.
(Crime No. 29 of 2019).

... Respondent/Complainant

For Petitioners : M/s.S.Pakalavan,
Advocate.

For Intervenor :Mr.R.J.Karthick, Advocate

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 29 of 2019 on the file of
the Respondent police

ORDER : The Court Made the following order :-

The petitioners/A1, A2 and A4, who apprehend arrest at the
hands of the respondent police for the offences punishable under
Sections 420,406,506(i) and 34 of IPC seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners would
submit that the petitioners have not committed any offence. He
further submitted that already the defacto complainant had sold the
properties which are situated in Survey No.71/1,71/3,72/1,72/2 ad-



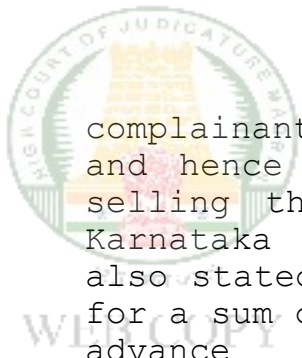
measuring 11.97 acres at Keelakannankulam Village under three sale deeds in favour of the first and second petitioners and received the consideration. He further submitted that in the said sale deeds it is clearly stated that the defacto complainant had received sale consideration from the first and second petitioners. He further submitted that after two years the defacto complainant demanded more money and for that the petitioners not agreed and hence the defacto complainant has lodged a false complaint against the petitioners. Therefore he prayed to grant anticipatory bail to the petitioners.

4. Per contra, the learned counsel for the intervenor/defacto complainant would submit that as per the oral agreement entered between the first and second petitioners and the defacto complainant in respect of the aforesaid properties without receiving any sale consideration the defacto complainant had executed sale deeds on the understanding that after selling the said property by the petitioners 1 and 2 to third party they have to pay the amount to the defacto complainant. He further submitted that in violation of the said agreement the first and second petitioners had executed power of attorney in favour of one Jeganathan(A3) and in pursuance of the said power of attorney A3 sold the property to third parties in the year 2016 itself but suppressing the said facts, the first petitioner and A3 had executed MOU (Memorandum Of Understanding) on 02.02.2018 stating that the aforesaid properties were acquired by the Government and also insisted the defacto complainant to sell one acre of land which is situated in Karnataka State and accordingly the defacto complainant entered into a sale agreement without agreeing to sell one acre of land for Rs.22,50,000/- but they have not paid the said amount also. Therefore he opposed to grant anticipatory bail to the petitioners.

5. The learned Additional Public Prosecutor adopted the arguments advanced by the learned counsel for the intervenor/defacto complainant and he also opposed to grant anticipatory bail to the petitioners.

6. The learned counsel for the petitioners by way of reply has submitted that the said MOU is a fabricated document and it was not executed by the accused Nos.1 and 3 and hence that will not bind upon them

7. It is seen from the typed set of papers filed by the intervenor that on 02.02.2018 a MOU(Memorandum of Understanding) was executed between the defacto complainant as the first party and A1 and A3 as second party. In the said document it is also stated that the defacto complainant already executed sale deed in the name of A1 and A3 authorizing them to sell the property which are situated in Keelakannankulam Village to an extent of approximately 20 acres. Further it is stated that if A1 and A3 sold the said properties to third party they have to pay the amount to the defacto



complainant. Further it is stated that the aforesaid contract failed and hence another agreement has been entered with regard to the selling the property of one acre of land which is situated in Karnataka State which belongs to the defacto complainant. It is also stated that A1 and A3 had agreed to purchase the said property for a sum of Rs.22,50,000/- and they paid a sum of Rs.5,00,000/- as advance to the defacto complainant and balance amount of 17,50,000/- will be paid at the time of registration. From the said document it appears that originally the defacto complainant had executed sale deed in favour of A1 and A3 with an agreement that after selling the property they have to pay the amount to the defacto complainant. But since the said contract failed another agreement has been entered between them and in pursuance of the said agreement it appears that the defacto complainant has received a sum of Rs.5,00,000/- as advance. Further it appears that the said one acre of land is only with the defacto complainant. So far the accused persons have not claimed any right based on the said MoU (Memorandum of Understanding). On the contrary it is the submission of the learned counsel for the petitioner that the accused persons have not all executed the said M.O.U

8. Taking into consideration of all the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

[8] Accordingly, the petitioners are ordered to be released on bail in the event of arrest or 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.II, Viruthunagar 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:

[a] if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] 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 for the interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
27/08/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE NO.II,
VIRUTHUNAGAR
- 2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR
- 3.THE INSPECTOR OF POLICE,
AAVIYUR POLICE STATION, VIRUDHUNAAGAR DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

- +1. CC to M/S.S.PAKALAVAN Advocate SR.No.14345
+1. CC to M/S.R.J.KARTHICK Advocate SR.No.14226

ORDER
IN
CRL OP (MD) No.9576 of 2019
Date :27/08/2019

AAV
PK/PN/SAR-3/27.08.2019 : 4P/7C