



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

Date : 14/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.10836 of 2019

1. Saleemraja
2. Fathima Sulthana ... Petitioners/Accused Nos.1 & 2

Vs

State Rep.by
The Inspector of Police,
Central Crime Branch
Madurai.
Cr. No. 6 of 2019. ... Respondent/Complainant

For Petitioners: M/s.V.Venkatasamy,
Advocate.

For Respondent : Mr.A.P.G.Ohm Charima Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 6 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120 B, 406 and 420 of IPC, in Crime No. 20 of 2019, seek anticipatory bail.

2.Heard both sides.

3.The learned counsel for the petitioners has submitted that the first petitioner has entered into a sale agreement with the defacto complainant on 10.08.2015 to sell his property for a sum of Rs.30,00,000/- and in pursuance of the said agreement, the first petitioner received a sum of Rs.3,00,000/- as advance and subsequently, on various dates, he received totally Rs.9,40,000/-.



He further submitted that since the first petitioner sustained loss in his business, he sold the property to A5 on 11.08.2017. He further submitted that the first petitioner was not able to discharge his debt and hence, he filed IP.No.26 of 2018 and the same is still pending. He further submitted that the second petitioner is in no way connected with the aforesaid transaction and since she happens to be the wife of the first petitioner, she has been falsely implicated in the above case, and therefore, he prayed to grant anticipatory bail to the petitioners.

4.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent has submitted that after entering into a sale agreement on 10.08.2015 with the defacto complainant, the first petitioner has received a sum of Rs,3,00,000/- as advance on the very same date and subsequently on various dates, Rs.9,40,000/- has been received and instead of selling the property to the defacto complainant, he has sold the property to A5 and thereby, the accused persons cheated the defacto complainant. He further submitted that for the investigation purpose, the interrogation of the first petitioner is absolutely necessary. Hence, he strongly opposed this petition.

5.The first petitioner has not disputed the sale agreement which was entered by him on 10.08.2015 and he has also not disputed the fact that he received a sum of RS.3,00,000/- as advance on the date of sale agreement itself and subsequently, he received Rs.9,40,000/- towards a part of the sale consideration. The only contention of the first petitioner is that since he sustained heavy loss in his business, he sold the property to A5 and also filed Insolvency petition. The contention of the first petitioner would show that from the inception, he had no intention to sell the property to the defacto complainant and therefore, this is Court is not inclined to grant anticipatory bail to the first petitioner.

6.Insofar as the second petitioner is concerned, she is not a party to the sale agreement and in the FIR, it is not stated that she has received any amount. Since she happens to be wife of the first petitioner, it appears, she has been added as accused. Hence, this Court is inclined to grant anticipatory bail to the second petitioner.

7.Taking into consideration of the aforesaid fact that the main allegations are only against A1, this Court is not inclined to grant anticipatory bail to the first petitioner.

8.Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Madurai on condition that the second 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 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 second petitioner fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the second petitioner 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 second petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the second 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 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.

9.Insofar as the first petitioner is concerned, this petition is dismissed.

sd/-

14/08/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE-I, MADURAI.
 - 2 DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, MADURAI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.V.VENKATASAMY Advocate SR.No.13555

ORDER IN

CRL OP(MD) No.10836 of 2019

Date :14/08/2019