

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.5490 of 2020

1 SACHIN @ SACHIDHANADHAM

[PETITIONERS / ACCUSED]

2 UMA MAGESHWARI

Vs

THE STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VILLUPURAM.

CR.NO.15 OF 2018.

For Petitioner : M/S.A.KASI Advocate

For Respondent : MR. K.PRABAKAR, Additional Public Prosecutor.

For Intervener : M/S.P.RATHINAVEL, 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 offences punishable under Sections 420 and 506(i) of IPC, in Crime No.15 of 2018, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant paid a sum of Rs.12,93,600/- for supply of MS Pipes by the petitioners. After receipt of the same the petitioners did not supply the materials and also refused to return the amount. Hence, the compliant.

3.The learned counsel for the petitioners would submit that the petitioners received a sum of Rs.12,93,600/- from the defacto complainant to supply the materials. On 14.02.2017, they supplied MS pipes to the value of Rs.4,73,000/-. Thereafter, the petitioners were unable to supply the MS Pipes, due to lack of raw materials. He would also submit that earlier, the petitioners approached this Court for anticipatory bail in CrI.O.P.No.16108 of 2019 and this Court granted anticipatory bail with the conditions, directing the petitioners to deposit a sum of Rs.8 lakhs to the defacto complainant within a period

of four weeks from the date of which the order copy was made ready. However, the petitioners were unable to raise funds and thereafter they had filed Crl.M.P.No.11024 of 2019 and this Court, by an order dated 08.08.2019 extended the time by three weeks and also directed the petitioners to pay a sum of Rs.5,000/- towards Chief Justice relief fund on or before 29.08.2019. Even then they were unable to raise that amount, once again filed a petition in Crl.M.P.No.12724 of 2019 seeking extension of time and this Court extended time for surrender till 10.10.2019 and stated that if the petitioner fails to surrender within 10.10.2019, the anticipatory bail granted shall automatically be dismissed. The petitioner was unable to surrender on or before 10.10.2019 and thereby the anticipatory bail granted got automatically dismissed. Mean while, the petitioner had directly made payment of Rs.8 lakhs to the defacto complainant and the defacto complainant has also acknowledged receipt of Rs.8 lakhs. Therefore the present application has been filed seeking anticipatory bail to the petitioners.

4.The learned counsel for the Intervenor would submit that the defacto complainant had paid a sum of Rs.12,93,600/- to the petitioners on 09.02.2019 for supply of MS Pipes. After receipt of the entire amount, the petitioners supplied pipes to the tune of Rs.4,73,000/- and, did not supply the balance materials, further they have also not repaid the amount and thereby on the complaint given by the Intervenor/defacto complainant, the case was registered. However, he would submit that as on date an amount of Rs.8 lakhs has been paid by the accused. He would further submit that further balance to be paid and thereby would seek that a direction may be issued to the respondent to complete the investigation and file a final report at an earliest date.

5.The learned Additional Public Prosecutor would submit that the defacto complainant has paid a sum of Rs.12,93,600/- through bank transactions to the petitioners for supply of MS pipes. The accused have supplied MS Pipes for the part amount and had failed to return the balance and have failed to supply the remaining material and did not repay the balance amount.

6. Heard both sides.

7. It is seen that the petitioners have received a sum of Rs.12,93,600/- on 09.02.2017 for supplying MS pipes and they supplied MS Pipes to the value of Rs.4,73,374/- and thereafter they have neither supplied the balance material nor repaid the amount taken by them towards supply of the material. They have not repaid the amount for two years, thereafter, this Court had granted anticipatory bail to them, on condition to pay Rs.8 lakhs to the defacto complainant. Since the petitioners were unable to pay the amount, the anticipatory bail got automatically cancelled. Now it is submitted that an amount of Rs.8 lakhs has been paid to the Intervenor/ defacto complainant and he has also acknowledged receipt of the same.

8. Considering the above facts and circumstances of the case and that the petitioners have supplied goods worth of Rs.4,73,374/- and also repaid the amount of Rs.8 lakhs to the defacto complainant, this court is inclined to grant anticipatory bail to the petitioners with certain conditions. 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 on which the order copy made ready, before the learned Judicial Magistrate Court No.II, Villupuram, on condition that the petitioners shall execute a separate 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, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall pay a sum of Rs.5,000/- jointly to the Tamil Nadu, Legal Services Authority, High Court, Chennai.

[c] the 1st petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation and the 2nd 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].

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

-sd/-
13/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VILLUPURAM.

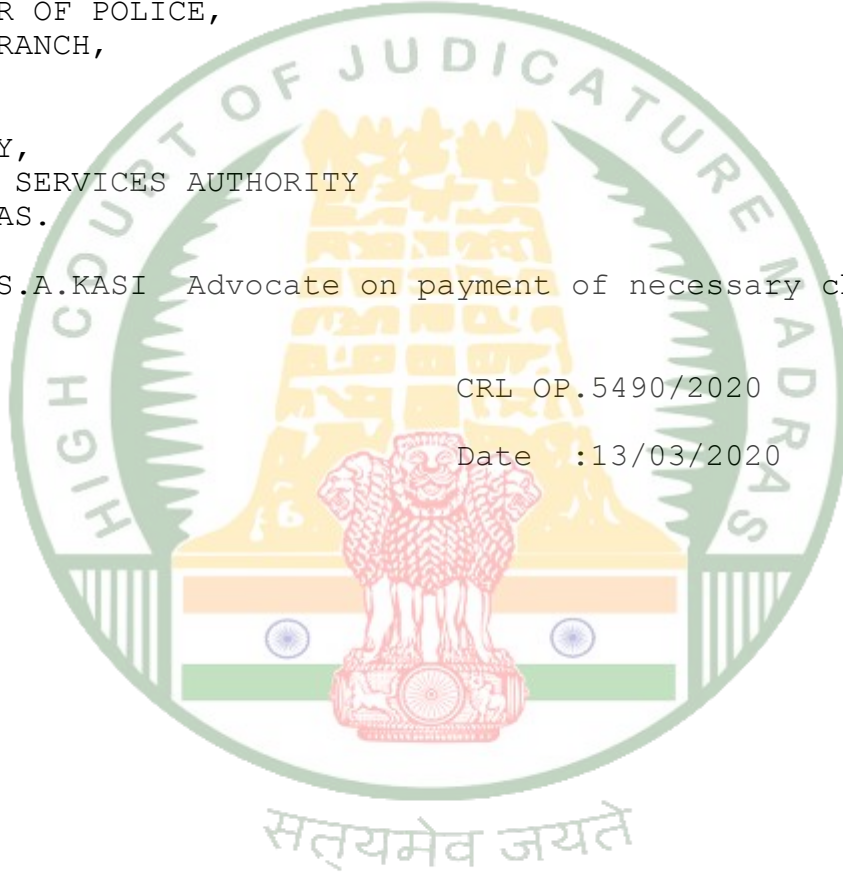
5 THE SECRETARY,
TAMIL NADU LEGAL SERVICES AUTHORITY
HIGH COURT, MADRAS.

+1 CC to M/S.A.KASI Advocate on payment of necessary charges
SR.NO.5220

CRL OP.5490/2020

Date :13/03/2020

TA-20/03/2020



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