

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Third day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.33999 of 2019

SIVARAJ

[PETITIONER / ACCUSED]

Vs

STATE REPRESENTED BY [RESPONDENT]
THE INSPECTOR OF POLICE,
EOW-II, SALEM,
SALEM DISTRICT,
(CR.NO.3/2016).

For Petitioner : M/S. T.GANESAN Advocate

For Respondent : MR.C.IYYAPPARAJ, 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 under Sections 120 (b), 406, 420 of IPC r/w Section 5 of TNPID Act in Crime No.3 of 2016 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 26.03.2016 the defacto complainant lodged a complaint against the petitioner that he paid monthly installments to the accused person for obtaining plot till the end of monthly payment. However, even after completion of the instalments, the accused has not executed the sale Deed, Hence the complainant lodged this complaint.

3.The learned counsel for the petitioner would submit that the co-accused has already enlarged on bail by imposing a condition of depositing of Rs.10 lakhs each and the same condition is applicable to the petitioner/A3. However, the learned counsel, on instructions, would submit that the petitioner is ready to deposit a sum of Rs.10 Lakhs to the credit of the crime number and also conceded the same to be disbursed to the defacto complainant and other victims. However, the learned counsel submitted that before disbursing the amount to the defacto complainant and other victims, an affidavit of undertaking shall be obtained from them, stating that in the event of the petitioner succeeding the case, the amount of Rs.10 Lakhs will be returned to him.

4.The learned counsel appearing for the intervenor conceded that the defacto complainant will file an affidavit of undertaking stating that in the event of the petitioners succeeding the case, the amount of Rs.10 Lakhs will be returned to the petitioner.

5.The Additonal Public Prosecutor appearing for State would submit that investigation is still pending.

6.In view of the interim arrangement now made in between the parties, this Court is inclined to grant anticipatory bail to the petitioner.

7.Considering the facts and circumstances of the case, since the petitioner himself come forward to deposit a sum of Rs.10,00,000/-, instead of cheated Rs. 48 Crores, in which other accused have deposited Rs.10 Lakhs each for grant of bail. Hence, this Court deems it appropriate to grant anticipatory bail. 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 TNPID Court, Coimbatore, 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 shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the credit of Cr.No.3 of 2016 before the TNPID Court, Coimbatore, within a period of fifteen days from the date of receipt of a copy of this order. On such deposit being made, the TNPID Court, Coimbatore, shall obtain an affidavit of undertaking from the defacto complainant and other victims stating that in the event of the petitioner succeeding the case, the total amount of Rs.30 Lakhs deposited by the petitioners to the credit of same Cr.No.3 of 2016 will be returned to the petitioners and after obtaining such affidavit of undertaking from the respective victims, shall disburse the said amount to the defacto complainant and other victims proportionately, within a period of four weeks thereafter;

(b)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the petitioner shall report before the respondent police twice a day i.e. daily at 10.30 a.m., and 5.30 p.m. for a period of two weeks and thereafter as and when required for interrogation;

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

(e)the petitioner 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 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]; and;

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

-sd/-

03/02/2020

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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE TNPID COURT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
EOW-II, SALEM,
SALEM DISTRICT.

CC to M/S. T.GANESAN Advocate on payment of necessary charges
SR.NO.2042

CRL OP.33999/2019

Date :03/02/2020

RVR 07/02/2020

WEB COPY