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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/07/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.7817 of 2020

SEHUNAINA ... PETITIONER/SOLE ACCUSED

VS

STATE REP. BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT.
CRIME NO.45 OF 2020. ... RESPONDENT/COMPLAINANT

For Petitioner : Mr.J.M.Hassanul Bazari,
Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Cr.No.45 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as sole accused, apprehending arrest at the hands of the respondent police for the offence punishable under sections 406, 420, 448, 294(b) and 506(i) of IPC, in Crime No.45 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is a building contractor and he entered into a construction agreement with the defacto complainant and received some amount. Thereafter, since the petitioner delayed the building construction, the defacto complainant demanded money from the petitioner. Hence, the complaint.

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3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent and he did not commit any offence as alleged by the prosecution and there is no bad antecedents against the petitioner. Hence, he seeks anticipatory bail.

5.The learned Government Advocate (Crl. Side), on instructions, submitted that the petitioner and the defacto complainant entered into agreement for construction for building, in which the defacto complainant paid a sum of Rs.20,00,000/- to the accused. There is a delay in constructing the building and therefore, a dispute arose between them, hence the complaint.

6.Considering the facts and circumstances of the case and on perusal of document and other materials, it is seen that it is only a contractual obligation, by means of an agreement between the parties, and the petitioner said to have performed part of his contract and received only part of contract amount from the defacto complainant, it is purely a civil dispute. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Ramanathapuram, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty 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)the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation;

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

(d)the 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 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]; and;

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

sd/-
28/07/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
RAMANATHAPURAM.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT.

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

ORDER
IN
CRL OP(MD) No.7817 of 2020
Date :28/07/2020

VSD
JM/VR/SAR 3/30.07.2020/3P/5C

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