



WEB COPY

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

Date : 14/08/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8299 of 2020

C.Prathap ... Petitioner/Accused No.3

Vs

The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.
Crime No. 12 of 2020.

... Respondent/Complainant

J.Selva Shamal

... Petitioner/Intervener
in CRL MP(MD)No.3971 of 2020
in CRL OP(MD)No.8299 of 2020

For Petitioner : Mr.S.C.Herold Singh,
Advocate.

For Respondent : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervener : Mr.K.Sudalaiyandi, Advocate

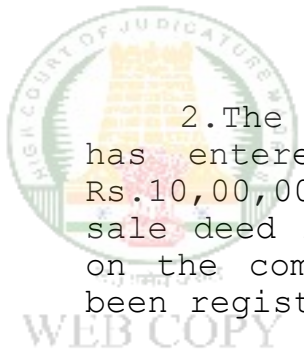
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Cr.No.12 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 420 and 506(i) of IPC, in Crime No.12 of 2020 on the file of the respondent police, seeks anticipatory bail.



2.The case of the prosecution is that the defacto complainant has entered into sale agreement with A1 by giving a sum of Rs.10,00,000/-. Thereafter, the first accused said to have executed sale deed in favour of the petitioner, who is arrayed as A3. Based on the complaint given by the defacto complainant, the crime has been registered against the petitioner.

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

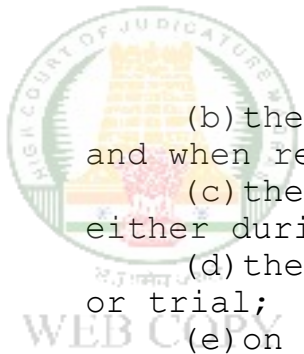
4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is a *bona fide* purchaser and from the date of purchasing the property, he is in possession. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that A1 was said to have received a sum of Rs.10,00,000/- from the defacto complainant and entered into sale agreement with the defacto complainant. Thereafter, the first accused said to have executed sale deed in favour of the petitioner, who is arrayed as A3. Hence, the crime has been registered.

6.Considering the facts and circumstances of the case and also considering the rival submission on either side and on perusal of the materials available on records, it is seen that it is a civil dispute with regard to execution of sale deed and even as per the allegation A1 only in this case entered into sale agreement with the defacto complainant and instead of executed sale deed in his favour, A1 has executed sale deed in favour of the petitioner/A3. Considering the above circumstances and the petitioner is a *bona fide* purchaser only, I am 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.1, Nagercoil, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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;

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

sd/-

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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.I, NAGERCOIL.
2. DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, NAGERCOIL,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8299 of 2020

Date :14/08/2020

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<https://hccs.e-courts.gov.in/fcse/vic/2020.08.2020>) 3P 5C