



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

Date : 24/08/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.8500 of 2020

1.Asif @ Asif Ali
2.Athijath Saliha

... Petitioners/Accused No.4 & 5

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No.10 of 2019

... Respondent/Complainant

For Petitioners: 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 Crime No.10 of 2019 on the file of the
Respondent Police,

ORDER : The Court made the following order :-

Totally there are five accused in this case. The petitioners, who are arrayed as Accused No.4 and 5, apprehending arrest at the hands of the respondent police for the offences punishable under section 420 of IPC, in Crime No.10 of 2019 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that all the accused are claimed to be the owner of the property and offering to sell the land to the defacto complainant. Earlier, A1 and A2 received a sum of Rs.10,00,000/- from the defacto complainant. Thereafter, the petitioners said to have received a sum of Rs.3,00,000/- and other accused received a sum of Rs.5,00,000/- from the defacto complainant. Thereafter, they failed to execute the sale agreement. Hence, the present complaint.



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 petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that due to family dispute, the petitioners have been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that all the accused are claimed to be the owner of the property and offering to sell the land to the defacto complainant. Earlier A1 and A2 received a sum of Rs.10,00,000/- from the defacto complainant. Thereafter, the petitioners said to have received a sum of Rs.3,00,000/- and other accused received a sum of Rs.5,00,000/- from the defacto complainant. Thereafter, they failed to execute the sale agreement. Hence, the crime has been registered. He further submitted that all the accused are absconding.

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 there is a civil dispute between the petitioners and the defacto complainant and in the year 2019, the money has been received by the petitioners along with other accused persons with regard to sell the property. Insofar as the petitioners are concerned, they received only Rs.3,00,000/- from the defacto complainant. Considering the above circumstances, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court No.II, Ramanathapuram, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each 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 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 are directed to jointly deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of Crime No.10 of 2019, to the Judicial Magistrate Court No.II, Ramanathapuram,



within a period of two weeks without prejudice to their rights and contentions before the trial Court;

(c) the petitioners 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 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]; and;

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

sd/-
24/08/2020

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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 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.8500 of 2020
Date : 24/08/2020

VSG
TK/AKM/SAR.2/26.08.2020/3P/5C

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