



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

Date : 12/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10481 of 2020

1. Annamalai
2. Chithra @ Chithra Devi ... Petitioners/Accused No.1 & 2

Vs

1. State Rep.by
The Inspector of Police,
Iluppur Police Station,
Pudukottai District.
Crime No.133 of 2020.
2. Rex Pandiyan ... Respondents/Complainants
(R2 Suo motu Impleaded as Per Order of this
Court dated 29.09.2020
in CRL OP(MD). No.10481 of 2020)

For Petitioners: M/s.K.Kevinkaran, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,

Government Advocate (Crl.Side)

For Intervener : Mr.Vimalraj, Advocate

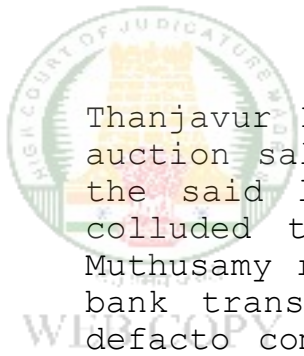
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.133 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners who are arrayed as A-1 & A-2 apprehending arrest at the hands of the respondent police for the offences punishable under section 420 of IPC, in Crime No.133 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant acquainted with the first accused through his brother Muthusamy since they are close friends. The said Muthusamy stated that his brother/A-1 was doing business of purchase of lands through Court auction in cheap rate. Accordingly, in the month of May 2007, the



Thanjavur Kalaimagal Sabha lands were came for sale through Court auction sale. Hence, the defacto complainant intended to purchase the said land and approached the first accused. The petitioners colluded to cheat the defacto complainant and also his brother Muthusamy received a sum of Rs.20 lakhs in various occasion through bank transactions to purchase the said land in the name of the defacto complainant. Thereaftter, the defacto complainant came to understand that the land purchased in the name of A-1 & A-2 on the amount received from the defacto complainant and the same was questioned by the defacto complainant, they abused him using filthy language and also gave life threat with dire consequences. Hence, the complaint.

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

4. The learned counsel appearing for the petitioners has submitted that the petitioners are having sufficient lands and they need not to do the business of purchasing lands for cheap price through court auction and no amount has been received from the defacto complainant. He further submitted that, in fact, his brother Muthuchamy has received some amount from the defacto complainant and cheated him and in sofar as the petitioners concerned they are no way connected with the allegations alleged by the defacto complainant. He further submitted that the first petitioner is practicing Advocate and having reputed status in the society. He further submitted that the complaint was lodged after 13 years from the date of alleged transactions and no documents to show that the defacto complainant has paid amount to the petitioners and also to prove that the petitioners have purchased the property in their name and when the amount was received from the defacto complainant. Therefore, he seeks anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervener has submitted that, on the promise made by the petitioners the defacto complainant has paid a sum of Rs. 20 lakhs through RTGS and also by way of DD in the year 2008 & 2009. He further submitted that as stated in the complainant that the petitioners herein on the very same day they have purchased the property in their name and instead of they have purchased in the name of the defacto complainant and thereby, cheated the defacto complainant to the tune of Rs.20 lakhs and therefore, the petitioners have cheated the defacto complainant.

6. According to the defacto complainant, he has paid a sum of Rs.20 lakhs to the petitioner for purchasing the property in his name through Court auction. On receipt of a sum of Rs.20 lakhs, the petitioners have purchased the property in their name instead of purchasing property in the name of the defacto complainant and hence, the petitioners said to have cheated a sum of Rs.20 lakhs.



7. On perusal of the First Information Report, the defacto complainant has paid a sum of Rs.20 lakhs to the first petitioner to purchase the property in his name. Thereafter, the first petitioner has purchased the property in his favour and his wife. Since the petitioners have failed to transfer the property in the name of the defacto complainant he has preferred the present complaint.

8. Admittedly, the first accused has received a sum of Rs.20 lakhs from the defacto complainant and thereafter, purchased the property in favour of the petitioners.

9. Considering the facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the first petitioner and this Court is inclined to grant bail to the second petitioner herein with certain conditions.

10. Accordingly, the Criminal Original Petition is partly allowed and the petition is dismissed as against the first petitioner and the second petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Illuppur, Pudukkottai, on condition that the second petitioner shall execute a 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the second 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 second petitioner shall appear before the respondent police as and when required for interrogation;

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

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

sd/-
12/10/2020

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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, ILLUPPUR,
PUDUKKOTTAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
3. THE INSPECTOR OF POLICE,
ILLUPPUR POLICE STATION, PUDUKOTTAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10481 of 2020
Date :12/10/2020

MS/VR/SAR-2/22.10.2020/4P.5C