



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

Date : 07/10/2020

PRESENT

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

CRL OP(MD). No.10951 of 2020

Prabhu ... Petitioner/ Sole Accused

Vs

State Rep. by
The Inspector of Police,
District Crime Branch,
Karur District.
(Crime No.18 of 2020).

... Respondent/Complainant

For Petitioner : Mr.R.Maheswaran,
Advocate.

For Respondent : M/s.M.Anandha Devi,
Government Advocate (Crl.Side)

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

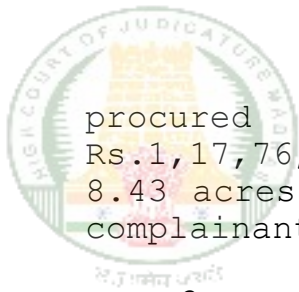
PRAYER :-

For Anticipatory Bail in Crime No.18 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is the sole accused, apprehending arrest at the hands of the respondent police for the offences punishable under sections 406 and 420 of I.P.C., in Crime No.18 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is working as a Manager in Siemens Gamesa Company. The said company has decided to establish a Solar Park at Keeranoor Village, Kadavoor Taluk, Karur District, for which, on 03.07.2019 the defacto complainant entered into two agreements with the petitioner's firm for the procurement of 150 acres of land to establish the said Solar Park. Thereafter, the defacto complainant agreed to purchase the land to an extent of 35.97 acres by sale consideration of Rs.4,30,00,000/- per acre. In pursuant to the same, the petitioner has



procured 27.54 acres of land for total consideration of Rs.1,17,76,620/-. Thereafter, he failed to procure the remaining 8.43 acres of land. 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 even as per the FIR, there is a civil transaction between the petitioner and the defacto complainants. As per agreement, the petitioner has procured 27.54 acres of land and remaining 8.43 acres of land to be procured. Therefore, no prima facie case for the offence under Sections 406 and 420 has been made out against the petitioner. Hence, he prayed for grant of anticipatory bail the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that as per agreement, the petitioner has to be procured 35.97 acres of land. The petitioner has procured only 27.54 acres of land for total consideration of Rs.1,17,76,620/-. Thereafter, the petitioner failed to procure remaining land of 8.43 acres.

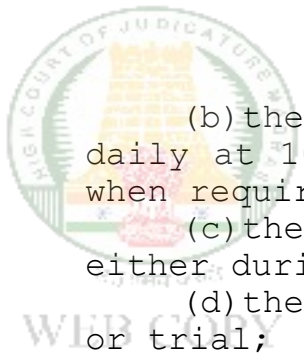
6. On perusal of the records, it is seen that there is an agreement between the petitioner and the defacto complainant, for which, on 03.07.2019 the petitioner received a sum of Rs.1,17,76,620/- to procure the land to an extent of 35.97 acres. Whereas, the petitioner has procured only to an extend of 27.54 acres.

7. Considering the facts and circumstances and also considering the fact that there is a civil transaction between the petitioner and the defacto complainant, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the 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 No.I, Kulithalai, on condition that the 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 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

<https://hdservices.mca.gov.in/hdservices/> identity;



(b)the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter 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/-

07/10/2020

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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 NO.I,
KULITHALAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR.
- 3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KARUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.10951 of 2020

Date :07/10/2020

vsg

JM/PN/SAR III/15.10.2020/3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>