



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

Date : 30/11/2020

PRESENT

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

CRL OP(MD) . No.13507 of 2020

G.Athiyappan

... Petitioner/Accused No.1

Vs

State rep.by,
The Inspector of Police,
Sivakasi Town Police Station,
Sivakasi,
Virudhunagar District.
(Crime No. 875 of 2020).

... Respondent/Complainant

For Petitioner : Mr.T.Lenin Kumar,
Advocate.

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

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

PRAYER :-

For For Anticipatory Bail in crime No.875 of 2020 on the file
of the respondent Police

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A-1, apprehending arrest at the hands of the respondent police for the offences punishable under sections 420 and 506(i) of I.P.C., in Crime No.875 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant has intended to purchase Plot Nos.16, 17 & 18 in Survey No.12 at Sivakasi. She has approached the petitioner through one Anand and A-2 and they stated that A-3 and nine other persons are owners of the property and all the owners have executed a power of attorney in favour of A-3 and he has power to execute sale deed in favour of the purchasers. Accordingly, they fixed sale consideration as Rs.81,27,00/-and on 07.07.2018 the defacto complainant has paid a sum of Rs.5 Lakhs as advance to the petitioner and thereafter, by way of DD for a sum of Rs.36,80,000/-in favour of A-3. Thereafter, she has also paid a sum of Rs.44,40,800/- by cash in several



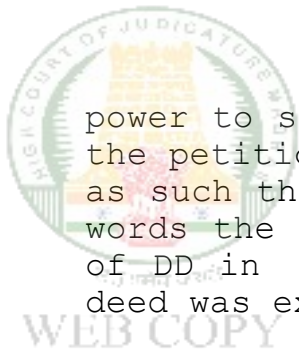
installments on various occasions. Thus, she has paid a sum of Rs.85,38,500/- and after receipt of the same, A-3 & A-4 evaded to execute sale deed in favour of the defacto complainant. Hence, the complaint.

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 petitioner submitted that the property had measuring 2.4 acres comprised in survey no.12 situated Sivakasi, Virudhunagar District belongs to one Krishnamoorthy and Kesavamoorthy and Ramamoorthy and on behalf of them, their brothers have entered into a sale agreement with the petitioner to sell the property. While entering into the agreement Rs.4 lakhs received as advance by A-3 and his brothers undertake to plot out the property who are intended to purchase the plots and pursuant to the agreement, the petitioner has plotted out the said property and entered into agreement with the respective purchasers. After receipt of the advance amount, the petitioner handed over the same to the said Krishnamoorthy, namely; A-3. He further submitted that in the meantime, his brothers Kesavamoorthy and Ramamoorthy passed away and due to the said reason, the petitioner was not able to execute sale deed in favour of the purchasers. In fact, on receipt of a sum of Rs.5 Lakhs from the defacto complainant, the petitioner handed over the said amount to A-3 and thereafter, the defacto complainant paid entire amount directly to the said Krishnamoorthy/A-3 and also got an endorsement in the sale agreement. Therefore, the petitioner is nothing to do with the offence as alleged by the prosecution and he never committed any offence. Hence, he seeks anticipatory bail.

5.Heard the learned Government Advocate (criminal side) appearing for the respondent police.

6.It is seen that there are totally four accused in this case. The said property belongs to A-3 & A-4 and brothers of A-3. While being so, the petitioner entered into an agreement for sale with A-3 on 28.11.2015. In turn, the petitioner entered into a sale agreement with the defacto complainant to sell the house plot Nos.16, 17 & 18 comprised in survey No.12 at Sivakasi. The defacto complainant has paid a sum of Rs.5 lakhs as advance to the petitioner and thereafter, by way of DD for a sum of Rs.36,80,000/-in favour of A-3 and thereafter, she has also paid a sum of Rs.44,40,800/- by cash in several installments on various occasions. Infact, the defacto complainant has paid a sum of Rs. Rs.85,38,500/-. Though, the defacto complainant alleged that remaining amount also through by way of cash and other transactions, the defacto complainant did not produce any proof for the same. In respect of other amounts paid through RTGS and by way of DD. The petitioner has entered into an agreement with the defacto complainant as if the original owners of the property executed a power of attorney and therefore, he has



power to sell the property and received amount. On the other hand, the petitioner reported that the property belongs to 10 persons and as such the major consideration to be paid to A-3 and believing his words the defacto complainant paid a sum of Rs.36,80,000/-by way of DD in favour to A-3. Even after receipt of the same, no sale deed was executed in favour to the defacto complainant.

7.This is the second application and there is no change of circumstances to entertain this application. Considering the facts and circumstances of the case and also considering the fact that all the accused persons have conspired together and cheated the defacto complainant, this Court is not inclined to grant anticipatory bail to the petitioners.

8.Accordingly, this Criminal Original Petition stands dismissed.

sd/-
30/11/2020

/ TRUE COPY /

/ /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 INSPECTOR OF POLICE
SIVAKASI TOWN POLICE STATION,
SIVAKASI, VIRUDHUNAGAR DISTRICT.
- 2.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.13507 of 2020
Date :30/11/2020

vsg
PK/JC/SAR-IV/08.12.2020 : 3P/3C