



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

Date : 24/11/2020

PRESENT

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

CRL OP(MD) . No.13334 of 2020

1.T.Ramaraj
2.Ayyamperumal

... Petitioners/Accused 1 & 2

Vs

State rep.by,
The Inspector of Police,
Vilathikulam Police Station
Thoothukudi District
In Crime No.266/2020.

... Respondent/Complainant

For Petitioner : Mr.R.Murugan,
Advocate.

For Respondent : 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. 266 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 506(i) and 420 of IPC, seek anticipatory bail.

2.Heard both sides.

3.The case of the prosecution is that the accused persons received a sum of Rs.3,00,000/- as an advance to sell their family properties for a total consideration of Rs.3,70,000/-. After receipt of the advance amount, they failed to execute the sale deed as well as the patta in favour of the defacto complainant.

4. The learned counsel for the petitioners would submit that even according to the defacto complainant, the petitioners refused to sell the property in his favour and as such, all the allegations are civil in nature. Even all the allegations are true as alleged by the prosecution, the defacto complainant ought to have filed a suit for specific performance. No allegation is made out to attract



the offence under Section 420 I.P.C. as alleged by the prosecution. Further the custodial interrogation of the petitioners did not require, since all the allegations are civil in nature.

5.The learned Government Advocate appearing for the respondent, on instructions, would submit that the subject property belonging to the father of the first and second accused and they entered into an agreement for sale dated 11.06.2019 and agreed to sell the subject property in favour of the defacto complainant and also received a sum of Rs.3,00,000/- as an advance. The total sale consideration fixed as Rs.3,70,000/-. Thereafter, when the defacto complainant is ready and willing to pay the balance amount, the petitioners are refused to execute any sale deed in his favour.

6. It is seen that totally there are two accused and the petitioners are arrayed as A1 and A2. According to the defacto complainant, after receipt of the advance amount of Rs.3,00,000/-, the petitioners failed to execute the sale deed and transfer the patta stands in the name of his favour. Therefore, the entire allegations are civil in nature and as such the custodial interrogation of the petitioners did not require in this case. That apart, the defacto complainant ought to have filed suit for specific performance, instead of lodging the complaint.

7.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Vilathikulam, Thoothukudi District. on condition that the petitioners shall execute a bond for a sum 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 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 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 petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners shall not abscond either during investigation or trial;

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(e) 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;

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

sd/-
24/11/2020

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/ /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 JUDICIAL MAGISTRATE, VILATHIKULAM,
THOOTHUKUDI DISTRICT
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.
3. THE INSPECTOR OF POLICE,
VILATHIKULAM POLICE STATION, THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.13334 of 2020
Date : 24/11/2020

LS
PK/AKM/SAR-III/30.11.2020 : 3P/5C