



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/12/2020

WEB COPY

PRESENT

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

CRL OP(MD).No.14060 of 2020

1.P.Mahendran

2.M.Sudha

... Petitioners/Accused Nos.1&2

Vs

The State Rep. by
The Sub Inspector of Police,
Othakadai Police Station.

Madurai District.

Crime No.1833 of 2020.

... Respondent/Complainant

For Petitioners : Mr.R.Sundar, Advocate.

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

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

PRAYER :-

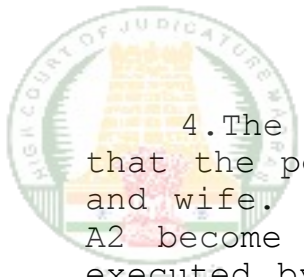
For Anticipatory Bail in Crime No.1833 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 & A2, apprehending arrest at the hands of the respondent police for the offences punishable under sections 415, 418, 420 and 506(ii) IPC in Cr.No.1833 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first accused along with his brother have executed an unregistered sale agreement for worth about a sum of Rs.20,00,000/- (Rupees Twenty lakhs only) for the subject property, which is owned by the first accused and his brother. After receipt of the amount the petitioners refused to return back the said amount and also failed to execute any sale deed in favour of the defacto complainant. Hence, the case has been registered.

3.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent.
<https://hcservices.ecourts.gov.in/hcservices/>



4.The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as A1 and A2, who are the husband and wife. Originally the property belongs to wife's ancestors. Now A2 become absolute owner of the property. However, agreement was executed by the first accused's brother. The time for execution of sale deed was fixed fixed for a period of six months. Even after completion of six months, the defacto complainant failed to pay the balance sale consideration and as such, the petitioners are nothing to do with the offence, as alleged by the prosecution. Further the petitioners are ready and willing to deposit half of the amount, which was received by the first accused to the credit of Crime No.1833 of 2020 on the file of the learned Judicial Magistrate, Melur, Madurai District.

5.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the first petitioner had no title over the property. Even then the first accused brother has executed an unregistered sale agreement in favour of the defacto complainant and failed to execute any sale deed. He also refused to return back the amount. When he was questioned by them he was threatened by the accused persons with dire consequence.

6.It is seen that there are totally two accused, in which the petitioners are arrayed as A1 and A2, who are the husband and wife. Admittedly, the property is owned by the second petitioner / A2 and the sale agreement was executed by A1's brother, on receipt of a sum of Rs.20,00,000/-. The learned counsel for the petitioners would submit that so far as the first accused is concerned, he has received a sum of Rs.10,00,000/- and the remaining amount received by his brother. However, the learned counsel for the petitioners submitted that the petitioners are ready and willing to deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) to the credit of Crime No.1833 of 2020 on the file of the learned Judicial Magistrate, Melur, Madurai District.

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

8.Accordingly, the petitioners shall deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) jointly to the credit of Crime No.1833 of 2020 on the file of the learned Judicial Magistrate, Melur, Madurai District, within a period of two weeks from the date of receipt of copy of this order and on such deposit, petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Melur, Madurai District, on condition that the petitioners 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 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 first petitioner shall report before the respondent police daily at 10.00 a.m for a period of four weeks and thereafter as and when required for interrogation and the second petitioner shall report before the respondent police 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;

(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/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/12/2020

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

ORDER IN

CRL OP (MD) No.14060 of 2020

Date : 04/12/2020