



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2020

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PRESENT

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

CRL OP(MD). No.14511 of 2020

Kannan

... Petitioner/Sole Accused

Vs

The State Rep. by
The Inspector of Police,
Aruppukottai Town police Station,
Virudhunagar District.
Crime No. 381/2020.

... Respondent/Complainant

For Petitioner : Mr.C.Mayil Vahana Rajendran,
Advocate.

For Respondent : Mrs.M.Anandhadevi,
Government Advocate (Crl.Side)

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

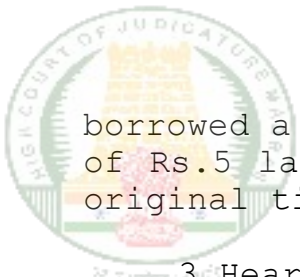
PRAYER :-

For Anticipatory Bail in Crime No. 381/2020 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 379, 406, 420, 468 and 469 of IPC, in Crime No.381 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the owner of the subject property. While being so, the sale deed was missing on 20.11.2017 as such, he lodged a complaint on 24.11.2018 before the Aruppukottai Town Police Station, Virudhunagar District. Thereafter, it was also published and public notice was issued to the defacto complainant and informed to the said police station for obtaining non traceable certificate. Thereafter, he came to understand that the accused has fabricated the mortgage deed in his favour dated 28.12.2010 as if the defacto complainant has



borrowed a sum of Rs.10 lakhs and subsequently he has borrowed a sum of Rs.5 lakhs from the petitioner , in which, he has deposited the original title deed. Hence, the present 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 earlier complaint lodged by the defacto complainant, the respondent police conducted the enquiry and the same was closed as if no offence was committed by the petitioner herein. Thereafter, the defacto complainant lodged a private complaint and the same has been filed under Section 156(3) Cr.P.C., and on the direction of the lower Court, the respondent Police has registered a case. He further submitted that on 28.12.2010 itself the defacto complainant has borrowed a sum of Rs.10 lakhs by mortgaging the property and deposited a title deed. Subsequently, he has borrowed a sum of Rs.5 lakhs from the petitioner. He further submitted that the petitioner has already constructed shops in the subject property. After period of eight years, the defacto complainant has lodged the present complaint. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl. Side), appearing for the respondent Police submitted that the defacto complainant is the owner of the subject property. While being so, the sale deed was missing on 20.11.2017. Thereafter, the defacto complainant came to understand that the accused has fabricated the mortgage deed in his favour dated 28.12.2010 as if the defacto complainant has borrowed a sum of Rs.10 lakhs and subsequently he has borrowed a sum of Rs.5 lakhs from the petitioner , in which, he has deposited the original title deed.

6. It is seen that the petitioner is the sole accused. According to the case of the defacto complainant, he is the original owner of the subject property and the sale deed was missing and as such on 24.01.2017 the defacto complainant has lodged a complaint before the respondent Police. Thereafter, public notice and non traceable certificate were issued to the defacto complainant in respect of the original document. It is also seen from the documents, on 28.12.2010 itself the defacto complainant has borrowed a sum of Rs.10 lakhs by mortgaging the property and deposited a title deed. Subsequently, he has borrowed a sum of Rs.5 lakhs from the petitioner, in which, the defacto complainant lodged a complaint. Thereafter, the respondent police has conducted the enquiry and the same was closed. Therefore, the defacto complainant has lodged a complaint only to escape from the clutches of law. Therefore, the custodial interrogation of the petitioner is not required.

7. Considering the facts and circumstances of the case and also considering the fact that there is no other serious allegations



against the petitioner and the custodial interrogation of the petitioner is not required, this Court is 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, Aruppukottai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 to ensure their 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/-

14/12/2020

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/ /2021

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, ARUPPUKOTTAI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3. THE INSPECTOR OF POLICE,
ARUPPUKOTTAI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+ 1 CC TO Mr.C.MAYIL VAHANA RAJENDRAN, ADVOCATE IN SR No. 8173

ORDER

IN

CRL OP(MD) No.14511 of 2020

Date :14/12/2020

VSG

TE/KV/SAR-III : 06/01/2021 : 4P/6C