



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/12/2020

PRESENT

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

CRL OP(MD). No.15281 of 2020

N.S.Seeni Jahufar

... Petitioner/Accused No.3

Vs

The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No. 11 of 2019.

... Respondent/Complainant

For Petitioner : Mr.Hassanul Bazari.J.M, 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.11 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3, apprehending arrest at the hands of the respondent police for the offences punishable under Section 420 IPC, in Crime No.11 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 03.09.2016 A1 to A5 have received a sum of Rs.5,00,000/- as advance amount and also received Rs.11,00,000/- by promising to execute a sale deed in favour of the defacto complainant for the property to the extent of 10 cents. The said property belongs to the second accused. After received by the entire payment the accused persons have failed to register any sale deed. 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 there is no absolutely proved by the defacto complainant that



the petitioner and others had received Rs.16,00,000/- from the defacto complainant. He further submitted that the occurrence took place in the year 2016 and the complaint has been lodged in the year 2019. He further submitted that even assuming the petitioner received the said amount from the defacto complainant purely civil in nature in respect of failing, the suit has filed in the manner known to law after three years.

5.The learned Government Advocate (Crl. Side), on instructions, submitted that there are totally six accused, in which the petitioner is arrayed as A3. He further submitted that the petitioners have received a sum of Rs.16,00,000/- from the defacto complainant to execute a sale deed and thereafter, they refused to execute a sale deed and cheated the defacto complainant.

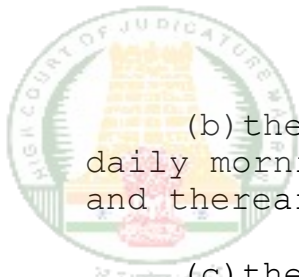
6.It is seen from the records that there are totally six accused in this case. In respect of subject property, the petitioner and others have received a sum of Rs.16 lakhs from the defacto complainant to executed a sale deed in the year 2016. Thereafter, they have not executed any sale deed. It is seen from the FIR that there is no prove that the petitioner and others have received a sum of Rs.16,00,000/- from the defacto complainant. Even assuming the petitioner and others received the said amount and for any execution of sale deed, the defacto complainant filed a suit in the manner known to law. It is also seen that the amount has been received by the petitioner in the year 2016, by which the defacto complainant lodged a complaint in the year 2019.

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

8.Considering the fact and circumstances of the case and considering the fact that civil dispute is pending between the parties, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.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 Judicial Magistrate Court No.II, Ramanathapuram District, 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 morning at 10.30 a.m., without fail, for a period of Two Weeks and thereafter as on 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
21/12/2020

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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 No.II, RAMANATHAPURAM.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+ 1 CC TO Mr.HASSANUL BAZARI.J.M, ADVOCATE IN SR No.8404

ORDER IN
CRL OP(MD) No.15281 of 2020
Date :21/12/2020