



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Nineteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.985 of 2021

SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

STATE BY

[RESPONDENT]

THE SUB INSPECTOR OF POLICE,
NEMILI POLICE STATION,
VELLORE DISTRICT.
CR.NO.02 OF 2021.

For Petitioner : M/S.R.SASIKUMAR Advocate

For Respondent : M/S.T.SHUNMUGARAJESWARAN, Govt. Advocate (Crl.Side)

For Intervener : M/S.BENNINGTON, Advocate

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

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406 and 420 of IPC in Crime No.02 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is running a Saw Mill. The petitioner is said to have received a sum of Rs.5,10,000/- from the defacto complainant by showing teak wood trees as if he is the power agent of the said trees. When the defacto complainant verified the said trees, there is no transaction between the petitioner and the landowner, in which, a wordy quarrel arose and till date, no amount has been paid and thereby cheated the defacto complainant. Hence, the present complaint.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he is no way connected with the offence as alleged. He further submits that the total amount involved is Rs.4 lakhs and out of Rs.4 lakhs, the petitioner has already paid Rs.2 lakhs and that the petitioner, without



prejudice to his defence and contentions, in order to show his bona fide, on his own volition, is ready and willing to deposit the balance amount of Rs.2 lakhs to the credit of above crime number thereafter, the said amount may disburse in favour of the defacto complainant and prays for grant of anticipatory bail to the petitioner.

4. The learned counsel for the Intervenor submitted that the petitioner received a sum of Rs.5,10,000/-, out of which, neither the teak woods nor any amount has been given so far by the petitioner and therefore, he vehemently opposed to grant anticipatory bail to the petitioner.

5.The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner is said to have cheated the defacto complainant to the tune of Rs.5,10,000/-. The value involved being very substantial, he vehemently opposed for grant of anticipatory bail to the petitioner.

6.Taking into consideration the submission made by the learned counsel on either side and further considering the fact that the petitioner, on his own volition, is ready and willing to deposit a sum of Rs.2 lakhs to the credit of the above crime number, this Court is inclined to grant anticipatory bail to the petitioner with some stringent conditions.

6.Accordingly, the petitioner is directed to deposit a sum of Rs.2 lakhs to the credit of the crime number, which is subject matter of the present petition, within a period of two weeks from the date on which the order copy is made ready and on such payment being made, the petitioner shall be released on bail in the event of arrest or on their surrender before the learned Judicial Magistrate, Arakkonam and on further 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner is directed to deposit a sum of Rs.2 lakhs to the credit of Crime Number which is the subject matter of the present petition and thereafter, the defacto complainant is permitted to withdraw the amount. If the petitioner succeeds in the criminal case, the defacto complainant shall refund the amount to the petitioner.



(c) the final order in respect of the said deposit shall be decided by the learned trial judge at the conclusion of the trial.

(d) the petitioner shall report before the respondent police as and when required for interrogation;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) the petitioner shall not abscond either during investigation or trial;

(g) 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;

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

-sd/-

19/04/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ARAKKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
NEMILI POLICE STATION,
VELLORE DISTRICT.

+1 CC to M/S. R.SASIKUMAR Advocate on payment of necessary charges SR.NO.5128

CRL OP.985/2021

Date :19/04/2021

TA-05/05/2021