

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.1190 of 2021

SURESH KUMAR

[PETITIONER / ACCUSED]

Vs

STATE REP BY,

THE INSPECTOR OF POLICE,

AVADI POLICE STATION,

THIRUVALLUR DISTRICT.

CR NO.1286/2020

[RESPONDENT]

For Petitioner : M/S.M.STALIN Advocate

For Respondent : M/S.K.PRABAKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420 and 506(1) of IPC in Crime No.1286 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are partners. The defacto complainant approached the petitioner to finance his new lay out venture near Avadi, to the tune of Rs.5,55,00,000/-. Pursuant to the same, he executed agreement dated 25.04.2016 and also arranged for the execution of a General Power of Attorney dated 25.04.2016 by M/s.Vainavi Homes, who is the original owner of the property. It was also further agreed by the defacto complainant, that the petitioner can sell the plots directly, till the petitioner realizes his principal and interest. On the agreed terms, he sold certain plots and realised part payments towards his principal and interest. Further, the defacto complainant also did not take any steps to settle the balance dues of petitioner. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the defacto complainant took illegal steps to extort the documents and cheques from the petitioner which were issued on his behalf at the time of obtaining the loan. Hence, the petitioner was forced to issue notice. The defacto complainant received the said notice on 02.11.2019, as on date, the petitioner has recovered a sum of Rs.2,23,00,000/- only from the sale of the plots. Hence he prays for grant of anticipatory bail to the petitioner.

4. Heard the learned Additional Public Prosecutor appearing for the respondent police. Based on the direction issued by the lower court FIR has been registered.

5. Considering the facts that it is a business transaction between the petitioner and the defacto complainant and further the fact that investigation is also almost over and it is a financial transaction between the parties, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Chief Metropolitan Magistrate at Egmore 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 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 Court concerned 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 on every Monday at 10.30 a.m., until further orders;

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

-sd/-
08/04/2021

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 CHIEF METROPOLITAN MAGISTRATE
AT EGMORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
AVADI POLICE STATION,
THIRUVALLUR DISTRICT.

+1 CC to M/S.M.STALIN Advocate on payment of necessary charges
SR.No.4596

सत्यमेव जयते
WEB COPY

CRL OP.1190/2021

Date :08/04/2021

cs 16/04/2021