

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

Thursday, the Fifteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.5447 of 2021

1 MOHAN [PETITIONERS/ ACCUSED]
2 MANJU

Vs

1.THE INSPECTOR OF POLICE, [RESPONDENTS]
CITY CRIME BRANCH, COIMBATORE.

2 P.SHANMUGAM
S/O.PERIYASAMY PILLAI,
RITHIKA ILLAM, NO.193,THIRUVALLUVAR NAGAR,
SELVAPURAM, COIMBATORE-641 026.

R2 IS SUO MOTU IMPEADED AS PER ORDER OF THIS COURT DATED 18.03.2021

For Petitioner : M/S.V.L.AKSHAI SAJIN KUMAR Advocate

For Respondent No.1 : M/S.KRITIKA KAMAL P. Govt.Advocate (Crl. Side)

For Respondent No.2 : M/S.S.S.SIVAKUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioners/A1 and 2, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 120B and 406 of IPC in CCB Crime No.04 of 2021, on the file of the 1st respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioners have not paid Rs.60 Lakhs to the complainant on the sale of land given as a security for the loan obtained by the complainant. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the sale deed was executed in the year 2016. He further submitted that earlier the defacto complainant preferred a complaint before the Superintendent of Police, Coimbatore District and the same was closed stating that they should work out their remedy before the competent civil court. However, again the complainant has made the present complaint in order to harass the petitioners. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned counsel for the intervenor submitted that the sale deed was executed based on the Varthamana Agreement in favour of the defacto complainant and agreed to pay the amount to the defacto complainant. But, the petitioners did not give the remaining amount of Rs.60,00,000/-. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that already the Superintendent of Police closed the complaint directing them to work out their remedy before the competent civil court.

6. Taking into consideration the facts and circumstances of the case, prima facie it is purely a civil transaction in which the law enforcing agency has no role to play. Therefore, this Court is inclined to grant anticipatory bail to the petitioners.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Coimbatore, on condition that the petitioners shall execute a separate 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 petitioners 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 1st 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; the 2nd 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 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/-

15/04/2021

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,
COIMBATORE.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE DISTRICT. (FOR INFORMATION)
- 3.THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, COIMBATORE.
- 4.THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.V.L.AKSHAI SAJIN KUMAR Advocate on payment of necessary charges SR NO.4742

+1 CC to M/S.S.SIVA KUMAR Advocate on payment of necessary charges SR NO.4876

CRL OP.5447/2021

सत्यमेव जयते

Date :15/04/2021

TK/21.04.2021

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