

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.15950 of 2020

1 NAVEENAN [PETITIONERS / ACCUSED]
2 SANKAR
3 THAMILSELVI

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
VEERAGANUR POLICE STATION,
SALEM DISTRICT.
CRIME NO.246 OF 2020.

For Petitioners : M/S.R.MARUDHACHALAMURTHY Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners, who apprehends arrest for the alleged offence under Sections 174 of Cr.P.C and subsequently altered to 306 of I.P.C in Crime No.246 of 2020, on the file of the respondent Police, seeks anticipatory bail.

2. Totally there are 3 accused in this case. The allegation is that the property originally belongs to the defacto complainant and the deceased is the wife of the defacto complainant. In the year 2014, the defacto complainant sold the property in favour of A1, for the purpose of getting a Bank loan to the tune of Rs.17,50,000/- with an assurance that the defacto complainant has to discharge the loan obtained by A1. Thereafter A1 should reconvey the property to him. Subsequently without the knowledge of defacto complainant A1 sold the property to A3, who is the wife of A2, and they have also mortgaged the property in HDFC Bank for Rs.25,00,000/-. Subsequent to that there was a settlement between the parties on 12.02.2019 and the defacto complainant entered into an agreement with A2 and A3 that he will discharge the loan obtained by A2 and A3 within a period of 3 years and the property should be handed over to him. However, all the accused said to have demanded the defacto complainant to repay the amount immediately and harassed him and

criminally intimidated him. Due to the same the deceased committed suicide by consuming pesticide. Hence the complaint.

3. The learned counsel for the petitioner would submit that the property has been sold to A1 in the year 2014, and there is no agreement for reconvene as stated by the defacto complainant it is a outright sale for valuable consideration. Thereafter, A1 sold the property in favour of A3 and they have also mortgaged the property in the bank. Since, the defacto complaint wants the property back and requested the accused to handover the property to him, and there was a mediation between the parties, in which the defacto complaint entered into an agreement with A2 and A3 and agreed to pay a sum of Rs. 5,00,000/- immediately and the remaining loan amount will be settled by him within a period of period of 3 years. But, he failed to comply with the agreement and he never paid any amount. In the said circumstances the petitioner demanded money from the defacto complainant as per the agreement entered between the parties. Thereafter due to some family dispute between the parties defacto complainant and his wife the deceased committed suicide and the petitioner have been falsely implicated in this case.

4. The learned counsel appearing for the intervenor would submit that the defacto complainant sold the property to A1, with a condition to reconvey the property to him, without honouring the same, A1 sold the property to A3. In such circumstances there was a mediation between the parties and the defacto complainant entered into agreement and he agreed to discharge the loan obtained by A2 and A3. In obedience to the same, the defacto complainant has also paid the amount and continuing to pay the installments to the bank. Even before the expiry of the period mentioned in the agreement, the petitioners have demanded money from the defacto complainant and harassed him and his family members. Hence, the wife of the defacto complainant committed suicide. Earlier the petitioner had approached this Court by way of filing a petition u/s 482 of Cr.P.C to transfer the investigation, wherein this Court, taking note of the fact that the accused persons are absconding and directed the respondent police to effectively take steps to secure the accused and complete the investigation as early as possible. He would further submit that granting of anticipatory bail to the petitioners should not affect the investigation process and tamper with the witnesses.

5. The learned Additional Public Prosecutor would submit that custodial interrogation of the petitioner is required in this case and the accused persons are still absconding and the investigation is still pending. Hence, he opposed for grant of anticipatory bail to the petitioners.

6. On perusal of the records it could be seen that the property originally was sold in the year 2014 to A1, thereafter A1 sold the property to A3 in the year 2016 and A2 and A3 said to have mortgaged the property in the bank. Subsequently in the year 2019, there was a agreement between the parties in which the defacto complaint agreed to pay a sum of Rs. 5,00,000/- immediately and pay the remaining loan within a period of period of 3 years. But as of now

there is no record to show that the defacto complainant has paid the loan amount. Now the allegation is that all the accused have criminally intimidated the defacto complainant to repay the entire amount, due to the same the deceased committed suicide. On a perusal of the materials available on record, there is no prima facie material available to show that the petitioner have abetted the deceased to commit suicide.

7. Considering the above facts of the case and mainly it is a money dispute pending between the parties, this court inclined to grant anticipatory bail to the petitioner with stringent conditions.

9. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate - No. I, Attur, 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, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his 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 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

-sd/-
26/03/2021

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,
NO.I, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VEERAGANUR POLICE STATION,
SALEM DISTRICT.

5 THE ASSISTANT REGISTRAR,
TAMILNADU MEDIATION AND CONCILIATION CENTRE,
HIGH COURT, MADRAS.

+2 CC to M/S. R.MARUDHACHALAMURTHY Advocate on payment of
necessary charges SR.NO.2968, 4086

सत्यमेव जयते CRL OP.15950/2020

Date :26/03/2021

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TA-15/04/2021