



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 10/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1917 of 2021

Razeen

... Petitioner/Accused Rank Not Known

Vs

The State rep.by,
The Inspector of Police,
Silaiman Police Station,
Madurai District.
Crime No. 48 of 2021.

... Respondent/Complainant

For Petitioner : M/s.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates,

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

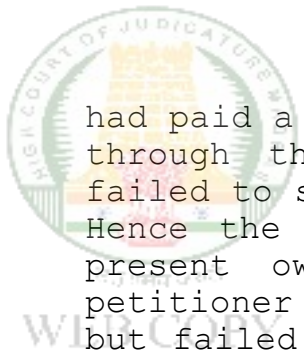
PRAYER :-

For Anticipatory Bail in Crime No.48 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 174 Cr.P.C @ 306 of IPC seeks anticipatory bail.

2. The case of the prosecution is that one Ramanpal and his wife Kanmani Meenkashi along with her husband namely Pitchai has been jointly carrying a business in the name and style of "Leo Bricks" under a partnership firm. Thereafter the partners decided to sell the said business to the petitioner. On account of the said decision, the defacto complainant's husband got a share of Rs.30,00,000/- as final settlement. The above said Ramanpal and his wife/co -partner though initially paid a sum of Rs.3,00,000/- as advance to the defacto complainant's husband and assured to pay the balance amount within a stipulated time. In this regard a deed of undertaking was signed by the partners and the petitioner herein had signed as witness in the said deed. Subsequently the said Ramanpal

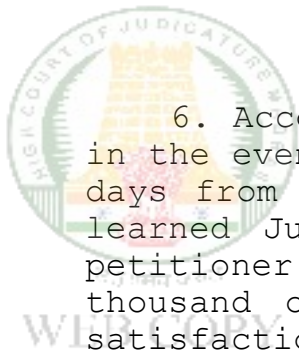


had paid a sum of Rs.2,00,000/- to the defacto complainant's husband through the petitioner. Thereafter the above said Ramanpal had failed to settle the rest of her husband's share and also absconded. Hence the husband of the defacto complainant had approached the present owner of the bricks who is the petitioner and the petitioner had orally agreed to pay the remaining share as early, but failed to pay the aforesaid share amount to the husband of the defacto complainant, hence due to mental agony her husband committed suicide. Hence the complaint.

3. The learned Senior Counsel for the petitioner would submit that initially case was registered under Section 174(3) of Cr.P.C and later altered to Section 306 of IPC. He further submitted that bricks chamber works was a partnership firm and was run by Ramanpal and his wife Kanmani Meenakshi. After taking over the business there was a arrangement between the partners and the deceased it was decided to pay some amount to the deceased by the partners. In that arrangement the petitioner signed as witness. Further the petitioner is not involved in any dealing amongst the partners. Now the said Ramanpal and Kanmani Meenakshi though agreed to pay a sum of Rs.30,00,000/- they have failed to do so. The petitioner was harassed for the same. The petitioner lodged a complaint against the husband of the defacto complainant for which CSR has been issued and no action taken. Further the petitioner has sent detailed representation to the Superintendent of Police, Madurai and requested to take action against the husband of the defacto complainant and on knowing the same the husband of the defacto complainant lodged a complaint against the petitioner with the false allegation. Further claiming that the deceased has left a suicide note mentioning the name of the petitioner and the petitioner is arrayed as accused is not proper. He would also submit that on humanitarian ground the petitioner has come forward to hand over a sum of Rs.1,00,000/- to the respondent, who in turn shall hand over the same to the defacto complainant.

4. The learned Government Advocate(Crl.Side) would submit that the deceased has approached the on various occasions, seeking balance amount of Rs.25 lakhs. Initially the said deceased had claimed Rs.73 lakhs and thereafter on negotiation the demand was reduced and it was agreed to pay a sum of Rs.30,00,000/-. But the erstwhile partners has not paid so far and had given only Rs.5,00,000/-. In view of the same he committed suicide and left the suicide note where the name of the petitioner is found.

5. Taking into consideration the facts and circumstances of the case and also taking note of the fact that prior to the occurrence there is no privity of contract between the petitioner and the deceased and the petitioner herein only signed in the deed of undertaking this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai 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 draw the demand draft in favour of the defacto complainant and hand over the same to the respondent police without prejudice to his rights and who in turn shall hand over the same to the defacto complainant.

(c) the petitioner shall report before the respondent police as and when required for interrogation.

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

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

(f) 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;

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

sd/-
10/02/2021

/ TRUE COPY /

/ /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,
MADURAI

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI

3. THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION, MADURAI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.AJMAL ASSOCIATES Advocate SR.No.888

ORDER
IN
CRL OP(MD) No.1917 of 2021
Date :10/02/2021

AAV
PK/PN/SAR-I/23.02.2021 : 4P/6C