



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/04/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.5733 of 2021

1. Palanivel
2. Sathis @ Sathishkumar ... Petitioners/Accused No.1 and 2

Vs

State Rep by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai.

(Crime No. 310 of 2021)

... Respondent/Complainant

For Petitioner : Mr.Vikram S,
Advocate.

For Respondent : Kr.Bharathi Kannan,
Government Advocate (Crl.Side)

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

PRAYER :

C-24AB. For Anticipatory Bail in Crime No.310 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.1 and 2 apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) I.P.C. in Crime No.310 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant engaged the service of first accused for constructing a house. They entered into an agreement dated 19.02.2020. The details of the construction have also been incorporated in the agreement. However,

<https://hcservices.ecourts.gov.in/hcservices/>



the first petitioner and his son, the second petitioner herein, who is the signatory in the agreement have not constructed a building in terms of the agreement. Though the required amount was received by the petitioners, the building was constructed with low quality construction materials. Hence, there are cracks in the building in several places. When it was informed to the petitioners, they promised to renovate the building. But later on, the defacto complainant came to know that the petitioners are in the habit of getting money from the building owners and constructing the building with poor quality. Therefore, this case came to be filed.

3.The learned counsel appearing for the petitioners submitted that the allegations against the petitioners are false. The building was constructed as per the terms and conditions of the agreement. There were some deficiencies in the constructed building and that was also set right. He fairly argued that it is not a case of criminal in nature. If the defacto complainant has any grievance, he has to approach the Consumer Forum or Civil Court for necessary compensation for deficiency of service. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the defacto complainant has filed a petition under Section 156(3) Cr.P.C before the learned Judicial Magistrate No.VI, Madurai. After perusing the petition, the case was forwarded by the learned Magistrate No.VI, Madurai to the respondent police and after enquiry, the case was registered in Crime No.310 of 2021 on the file of the respondent police.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent Police.

6.It is seen from the submission that there was an agreement dated 19.02.2020 between the petitioners and the defacto complainant. Whether the building was constructed in terms of the agreement, defects in the construction and deficiency of service, have to be decided only by the competent Civil Court. Without going into the merits of the case and taking note of the facts and circumstances of the case, 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 before the learned Judicial Magistrate, No.VI, Madurai, within a period of fifteen days from the date of receipt of a copy of this order, on their executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the said Magistrate 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners 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.

[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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/petitioners thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
22/04/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.VI,
MADURAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
3. THE INSPECTOR OF POLICE
AVANIYAPURAM POLICE STATION,
MADURAI.



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

WEB COPY

ORDER
IN
CRL OP (MD) No.5733 of 2021
Date :22/04/2021

AMS/VR/SAR-1/27/04/2021/4P/5C