



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

Date : 20/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.9113 of 2021

Javid Abdullah,

... Petitioner / 3rd Accused

Vs

The State Rep. by
The Inspector of Police,
District Crime Branch Police Station,
Ramanathapuram District.
(Cr.No.24/2021)

... Respondent /Complainant

For Petitioner : M/s.Kabilan V,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

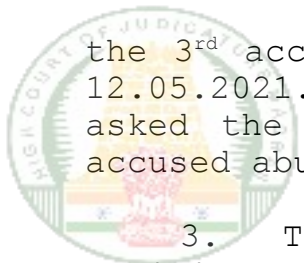
PRAYER :-

For Anticipatory bail in Crime No. 24 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A3, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 420, 417, 109, 294(b) and 506(i) IPC in Crime No.24 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the land in Survey Nos.432/3 and 432/4, situated at Vani Village, Sakkarakottai Group, Ramanathapuram District, belongs to one Jaffer Ali. He executed a general power of attorney in favour of the first accused in respect of the above land. On the strength of the power, the first accused entered into an unregistered sale agreement with the defacto complainant in respect of the above mentioned land. As per the above agreement, the sale consideration amount was fixed at Rs.1,60,000/- per cent and both the parties agreed to complete the above sale process within six months. Pursuant to the above sale agreement, the first accused received advance amount of Rs.20,00,000/-. Later, the first accused did not execute the sale deed in favour of the defacto complainant. But, without the knowledge of the defacto complainant, the first accused executed a sale deed in respect of the land in favour of his wife/A2, vide a registered sale deed dated 22.09.2020. Thereafter, after the lapse of five months, the 2nd accused sold the above mentioned property to



the 3rd accused/petitioner herein vide a registered sale deed dated 12.05.2021. After knowing the same, when the defacto complainant asked the first accused to return the advance amount, the first accused abused him and also threatened him with dire consequences.

3. The learned counsel for the petitioner submits that the petitioner is only a *bona fide* purchaser. If the prosecution case is true, the petitioner is also the victim by the act of the first and second accused. He further submits that the petitioner is a reputed Doctor and he has no knowledge about the alleged commission of offence. The entire transaction was only made between the defacto complainant and the first accused and that too made five months prior to the purchase of the petitioner.

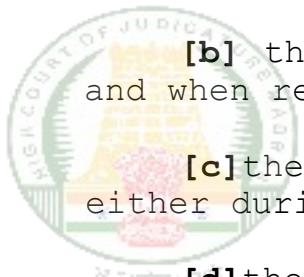
4. The learned counsel for the petitioner further submits that the first accused filed a petition not to harass before this Court in CrI.O.P.(MD)No.5298 of 2021, in which, the defacto complainant was also a party and that petition was closed by this Court vide order dated 16.04.2021 with observation that the Police Officials have closed the complaint for the reason that the matter is a civil dispute and the parties concerned were instructed to work out their remedy through Civil Court. The defacto complainant has suppressed all these above facts and filed a petition under Section 156(3) Cr.P.C. before the learned Judicial Magistrate No.II, Ramanathapuram, in CrI.M.P.No.514 of 2021 for seeking a direction. The learned Judge, vide order dated 03.05.2021, without giving opportunity to the petitioner, directed the respondent to investigate and file a report. The respondent Police, without conducting proper investigation, registered a case in Cr.No.24 of 2021 as against the petitioner and two others.

5. The learned Government Advocate (CrI. Side) submits that the investigation is yet to be completed.

6. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioner, the status of the petitioner and also the fact that the petitioner is only a *bona fide* purchaser, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed 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 Judicial Magistrate No.II, Ramanathapuram, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar 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 the 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 is 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 229-A IPC.

sd/-
20/09/2021

/ TRUE COPY /

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

OGY

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,
RAMANATHAPURAM.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-6416[I] dated 21/09/2021)