



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.444 of 2022

T.M.Sankar

...Petitioner

Versus

State Rep by
The Inspector of Police,
D-1, Triplicane Police Station,
Chennai, Tamil Nadu - 636 803.

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.94 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.N.Kumanan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 & 420 IPC in Crime No.94 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant entered into sale agreement for UDS of 593 Sqft and construction agreement for Built up Area of 1147 Sqft with first accused/Senthil kumar (SRP Homes) on 24.02.2018 for purchase of Flat at Second Floor BF-2, the defacto complainant paid sum of Rs.10,50,000/- by cash and cheque between 26.02.2018 to 02.07.2018 and on going construction at Gregumbakkam, Chennai. Further, the defacto complainant alleged that along with him his uncle also paid sum of Rs.14.50,000/- by cash and cheque and entered into sale agreement for UDS of 593 Sqft and construction agreement for Built up Area of 1147 Sqft with the first



accused/Senthil kumar (SRP Homes) on 24.02.2018 for purchase of Flat at Second Floor BF-1, .Hence, there was delay in construction on verification they came to know that the approval was not obtained for the construction, therefore, the defacto complainant sought for the refund of the money paid by them, for which cheque was issued and the same was dishonoured, when further requested for money the petitioner along with A1 threatened the defacto complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the first accused had paid a sum of Rs.46,14,720/- and entered into two joint development agreement and memorandum of understanding dated 31.01.2018 with the 4th, 5th and 6th accused, who are the owners of the property to construct ground plus two floors residential apartment. It is submitted that subsequent to the Joint Development agreement the 4th, 5th and 6th accused executed registered Power of attorney dated 31.01.2018 bearing document Nos,715 and 716 of 2018 on the file of SRO, Pamal in favour of the first accused empowering to obtaining plan approval, execute sale agreements and sale deeds pertaining to the property. It is submitted that the construction activity commenced and reached the stage of completion of ground floor roof and at that juncture the 4th, 5th and 6th accused cancelled the Power of attorney executed in favour of the first accused by executing registered deed of cancellation on 01.03.2019 bearing document Nos.1611 and 1612 of 2019. He further submitted that the first accused had filed a suit in O.S,No.71 of 2019 on the file of the District Munsif Court, Sriperumbudur. The learned counsel, on instructions, would further submit that the petitioner, without prejudice to his rights, is ready to deposit the amount of Rs.5,00,000/- to the credit of the crime number. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner along with other accused persons had received the money from the defacto complainant and cheated them. He further submitted that the investigation is almost completed. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and also the fact that the investigation is almost completed and the petitioner is ready and willing to deposit a sum of Rs.5,00,000/- to the credit of crime number, 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 on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the



Court's normal functioning whichever is earlier, before the learned II Metropolitan Magistrate, Egmore, 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, the petition for anticipatory bail shall stand dismissed and on further condition that:

(a) the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Cr.No.94 of 2020 before the learned II Metropolitan Magistrate, Egmore, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier,. On such deposit being made, the learned II Metropolitan Magistrate, Egmore,, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.5,00,000/- deposited by the petitioner to the credit of Cr.No.94 of 2020 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;

[b] 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.

[c] the petitioner is directed to appear before the respondent police on every Wednesday at 10.30 a.m., until further orders. .

[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].



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

WEB COPY

-sd/-

10/01/2022

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 II METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
D-1, TRIPLICANE POLICE STATION,
CHENNAI 636803

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S N.KUMANAN Advocate on payment of necessary charges
SR.NO.479

CRL OP.444/2022

Date :10/01/2022

RW 20/01/2022