



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G. CHANDRASEKHARAN

CRIMINAL ORIGINAL PETITION No.10652 of 2022

M.A.SALIM

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
R5- VIRUGAMBAKKAM POLICE STATION,
CHENNAI-600092.
(CRIME NO.233/2022)

[RESPONDENT]

For Petitioner : MR.N.R.ELANGO, Senior Counsel
For M/S. A.S.ASWIN PRASANNA Advocate

For Respondent : M/S.J.SUBBIAH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections 406 & 420 of IPC in Crime No.233 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. When the matter is taken up for hearing, Mr.Rajesh, learned Counsel submitted that the defacto complainant wants to intervene in this petition by filing a petition.

3. However considering the allegations made in the First Information Report, this Court is of the view that the allegations made in the complaint are purely related business transaction. It is evident that the defacto complainant supplied building materials to the accused to the tune of Rs.26,00,000/-.The petitioner stopped paying the amount and was delaying the payment. Therefore, defacto complainant stopped the supply of materials and he repeatedly requested the petitioner to pay the amount, but the petitioner has not paid the amount. In November last year, petitioner and his assistant Jayapal approached the defacto complainant with a request to supply the materials and also promised to pay Rs.6,50,000/- and



previous pending amount of Rs.26,00,000/- totally Rs.32,50,000/-. Without paying the amount, petitioner/accused is delaying the payment and committed the offence of cheating. Hence, First Information Report was registered under Sections 406 & 420 of IPC.

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4. Though the learned counsel appearing for the defacto complainant has not already filed intervening petition, he was also heard. It is his submission that petitioner is a big builder and despite having funds, he is deliberately not paying the amount.

5. The learned Government Advocate (Crl.side) appearing for the respondent submits that investigation in this case is pending.

6. As said earlier, the entire allegations made in the complaint only makes out a clear case of business transaction. In the said circumstances, this Court is of the view that custodial interrogation of the petitioner is not necessary. Hence, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned XXIII Metropolitan Magistrate, Saidapet on condition that the petitioner shall execute a bond for a sum of Rs.25,000/-only (Rupees Twenty Five 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 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

(c) the petitioner shall report before the Investigating Officer daily at 10.30 a.m. until further orders.

(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 has 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;



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

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-sd/-

06/05/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE XXIII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI.

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

3 THE INSPECTOR OF POLICE,
R5- VIRUGAMBAKKAM POLICE STATION,
CHENNAI-600 092.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. A.S.ASWIN PRASANNA Advocate on payment of
necessary charges SR.No.6845

CRL OP.10652/2022

Date :06/05/2022

CSK 12/05/2022