



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

Date : 24.01.2022

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL OP(MD) . No.1133 of 2022

1. K.M.S.SANTHAKUMAR
2. S.SRINIVASHINI
3. VIJAYAKUMARI

... PETITIONERS/ACCUSED NOS.1,3&4

VS.

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
SUBRAMANIPURAM POLICE STATION,
MADURAI CITY.
(CRIME NO.23 OF 2022).

... RESPONDENT/COMPLAINANT

For Petitioners : Mr.J.Lawrence
Advocate.
For Respondent : Mr.S.Manikandan
Government Advocate (Cr1. Side)

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

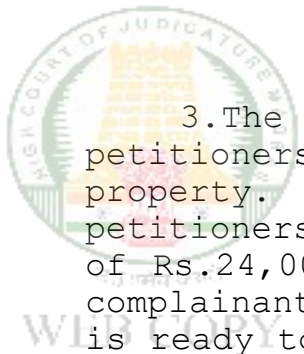
PRAYER :-

For Anticipatory Bail Crime No.23 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused Nos.1, 3 and 4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(b), 406, 420 and 506(i) of I.P.C., in Crime No.23 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A2 is the absolute owner of a land. A2 entered into a sale agreement with the defacto complainant and received a sum of Rs.24,00,000/- (Rupees Twenty Four Lakhs only) as an advance. But he failed to execute the sale deed. When the same was questioned by the defacto complainant, the petitioners abused him. Therefore, the present case came to be registered.



3.The learned counsel for the petitioners submitted that the petitioners are A1, A3 and A4. The property is the ancestral property. The petitioners are having share in the property. The petitioners are not party to the sale agreement. A2 borrowed a sum of Rs.24,00,000/- (Rupees Twenty Four Lakhs only) from the defacto complainant and the sale agreement was executed as a security and he is ready to return the same, but the defacto complainant refused to receive the amount. The relief available to the defacto complainant is to file a civil suit for specific performance and prayed to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Criminal Side) for the respondent police submitted that the defacto complainant has proposed to purchase a land near Kodaikanal. The sale consideration was fixed as Rs.1,29,00,000/- (Rupees One Crore Twenty Nine Lakhs only). The defacto complainant paid a sum of Rs.24,00,000/- (Rupees Twenty Four Lakhs only) as advance. Later the defacto complainant came to know that A2 has executed a settlement deed. This is a clear case of cheating not a civil case and prayed the petition to be dismissed.

5.It is seen that the matter involved is civil in nature. The entire case depend upon the sale agreement. Whether the petitioners are having share in the property cannot be decided in this petition. Considering the nature of offence, this Court is inclined to grant anticipatory bail to the petitioners.

6.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.IV, Madurai, on condition that the petitioners shall execute 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 learned Magistrate concerned and the petitioners shall appear before the respondent Police for a period of one month daily at 10.30 a.m., and thereafter as and when required for interrogation. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

7.The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
24/01/2022

/ TRUE COPY /

/ /2022
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.IV,
MADURAI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION,
MADURAI CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.1133 of 2022
Date :24/01/2022

USK/VR/SAR-IV/27.01.2022/3P/5C