



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/06/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.10860 of 2022

1. A.Radhakrishnan

2. D.Karunanidhi

... Petitioners/Accused Rank Not Known

Vs

The State represented by
The Inspector of Police,
Amathur Police Station,
Soolakarai Police Circle,
Virudhuangar District.
Crime No.21/2014.

... Respondent/Complainant

For Petitioners : Mr.C.Abul Kalam Azad,
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor(Crl.Side)

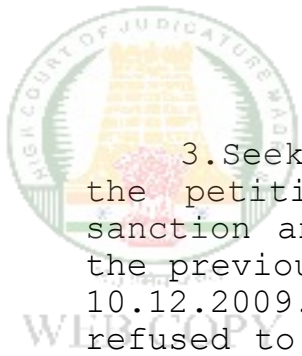
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory Bail in Crime No.21/2014 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 406, 409 and 420 of IPC in Crime No.21 of 2014 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution against this petitioners as well as the other co-accused is that the defacto complainant was cheated by the accused persons, by breach of promise of constructing a house in the plot, which was purchased by him. Loan was also obtained by him, but that amount was misappropriated by the 1st accused. The petitioners also colluding in the aforesaid process of cheat. Later, it was found that no house was constructed as per the promise and all the accused persons colluded together and cheated the defacto complainant to the value of about Rs.11,40,000/-.



3. Seeking anticipatory bail, this petition came to be filed by the petitioners on the ground that the 1st petitioner did not sanction any loan to the defacto complainant. It was sanctioned by the previous Manager and he disbursed only a sum of Rs.1,25,000/- on 10.12.2009. Finding that construction was not carried out, he refused to disburse the balance amount. He made a personal visit to the property and found that construction activities were going on. Only on the basis of the aforesaid personal visit, he disbursed the aforesaid amount. So, the 1st petitioner is noway responsible for the aforesaid issue between the defacto complainant and the 1st accused.

4. Insofar as the 2nd petitioner is concerned, it is the case to the effect that he was only a Controlling Officer and he is noway involved in the day-to-day affairs of the Bank and he has been wrongly roped in.

5. Perusal of entire case files as well as the case of the petitioners shows that major role has been played by the 1st accused in arranging plot, undertaking the construction work and receiving of the loan amount and thereafter, breach of promise and misappropriation of the money and the 1st petitioner was only the Manager during the relevant point of time. As mentioned by him, he has disbursed only a portion of the amount ie., Rs.1,25,000/-. Apart from that, he has no personal role in the aforesaid issue between the defacto complainant and the 1st accused.

6. It is further seen that because of the non-payment of the loan amount, SARFAESI proceeding has been initiated as early as in 2012 in O.A.No.355 of 2012. In that proceeding, the defacto complainant remained *ex parte*. Later, along with the other respondents, the defacto complainant filed I.A.No.1651 of 2017 to set aside the *ex parte* order and that was also dismissed by the Debts Recovery Tribunal, Madurai on 19.03.2018. He also filed a suit before the learned Principal District Judge at Srivilliputhur, Virudhunagar District, claiming compensation amount, wherein the petitioners herein were not arrayed as defendants. Only the previous Manager, by name Pandiyarajan, was shown as 2nd defendant. So, it appears that after filing of the said O.A.No.355 of 2012, the present complaint has been given by the defacto complainant roping all the bank officials and others as accused. This has been pointed out by the learned counsel for the petitioners to the effect that to escape from the SURFAESI proceeding, such false complaint has been given.

7. Now, whatever it may be, it is seen that it is a old matter and the investigation is almost over and considering the limited role that has been played by the 1st petitioner, he is entitled for the discretionary relief of anticipatory bail. Insofar as the 2nd petitioner is concerned, absolutely there is no involvement in the aforesaid issue. He is only the Controlling Officer at the level of



General Manager. So, he cannot be roped into the issue between the 1st accused and the defacto complainant. So, he is also entitled to the discretionary relief of anticipatory bail.

8.The learned Additional Public Prosecution (Crl.side) appearing for the respondent submits that without properly verifying whether the construction is carried out in the property, loan has been disbursed by this petitioners.

9.However, on perusal of records shows that a portion of construction was carried out in the plot, which was purchased by the defacto complainant. This has been pointed out by the learned counsel for the petitioners to the effect that on the site verification, the 1st petitioner found that a portion of the construction was carried on.

10.In view of the foregoing discussions and considering the facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

11.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.II, Virudhunagar and 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.30 a.m. until further orders. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

12.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 shall stand dismissed.

sd/-

22/06/2022

/ TRUE COPY /

24/06/2022

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.II,
VIRUDHUNAGAR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE
AMATHUR POLICE STATION, SOOLAKARAI POLICE CIRCLE,
VIRUDHUANGAR DISTRICT.

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

+1. C.C. to Mr.C.Abul Kalam Azad, Advocate. SR.No.6073.

ORDER

IN

CRL OP(MD) No.10860 of 2022

Date :22/06/2022

MM

MK/JM/SAR.IV/24.06.2022/4P/6C