

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/09/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.14538 of 2022

1. S.Nachiappan,

2. Arul Sasikala, ... Petitioners/Accused Nos.1 &2

Vs

State Rep.by

The Inspector of Police,

Mattuthavani Police Station,

Madurai City.

(in Crime No. 301 of 2022). ... Respondent/Complainant

For Petitioners: M/s.Manickam.R,Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Government Advocate (Crl.Side)

For Intervener : No Appearance

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

PRAYER :-

For Anticipatory Bail in Crime No.301 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 448, 420 and 506(i) of IPC, in Crime No.301 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant namely Narayanan @ Vadivelu purchased the property from one Tara and three others, vide sale deed dated 09.06.2021. After purchase, the defacto complainant inspected the land, at that time, the petitioners have illegally trespassed into the defacto complainant's

land. When the same was questioned, the petitioners abused him with filthy language and also threatened him with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioners would submit that on 19.12.2020, the first petitioner entered into a sale agreement with one M.S.K.Suresh in respect to the house site in Plot No.40. The sale consideration was arrived at a sum of Rs.9,81,525/-, out of which, a sum of Rs.9,00,000/- was paid as advance. Since the major portion of the sale consideration was received, the said M.S.K.Suresh by a specific clause in the said agreement, had handed over the possession of the property and the first petitioner constructed a house in the said plot. He would further submit that the said M.S.K.Suresh died on 10.01.2021. Thereafter, the legal heir of the said Suresh executed a sale deed in Document No.2276 of 2021, dated 09.06.2021 in favour of the defacto complainant. Therefore, the first petitioner was constrained to file a suit in O.S.No.618 of 2022 on the file of the First Sub Court, Madurai and the same is pending. He would further submit that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution. Hence, they may be granted anticipatory bail.

4.The learned Government Advocate(Crl.Side) would submit that the defacto complainant purchased the property from one Tara and three others in plot Nos.40 and 50. The first petitioner was appointed as a Manager to oversee the construction, for which, a sum of Rs.80 lakhs has been paid for construction. He was also paid a sum of Rs.25,000/- per month as salary. After construction, the petitioners were refused to vacate the premises and occupied the same. He would further submit that the investigation is still pending.

5.Per contra, the learned counsel for the petitioners submitted that the first petitioner is an Engineer. The defacto complainant has paid the amount only to construct the house in plot No.50.

6.Considering the facts and circumstances of the case and also considering the fact that the matter appears to be civil in nature and the civil suit is pending between the parties, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.VI, 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the petitioners 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;

(b) the petitioners shall report before the respondent police as and when required for interrogation.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
29/09/2022

/ TRUE COPY /

/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
MATTUTHAVANI POLICE STATION, MADURAI CITY.

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

+1 CC to M/s.R.MANICKAM, Advocate (SR-10817[I] dated 30/09/2022)
ORDER
IN
CRL OP(MD) No.14538 of 2022
Date :29/09/2022

cp
PKP/SBN/SAR-1/12.10.2022/3P/6C