



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19.10.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD). No.16695 of 2022

S.Ithayaraj

... Petitioner/Accused No.5

Vs

State through its
The Inspector of Police,
Alanganallur Police Station,
Madurai District.
(Crime No.164 of 2022)

... Respondent/ Complainant

For Petitioner : Mr.M.M.Manivel Pandian,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl. side).

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

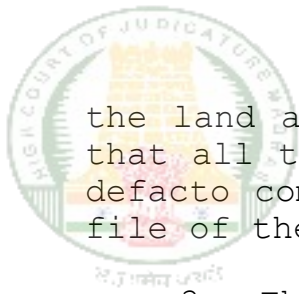
PRAYER :-

For Anticipatory Bail in Crime No.164 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.5, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120B, 406, 420, 467, 468, 471 and 506(2) IPC, in Crime No.164 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant by name Seethapathy is owning land in Survey No.48/3 Plot No.29 at Kovilpapakudi Village, that the first accused by name Seetha changed his name as Seetha @ Seethapathy, fabricated false documents and impersonated and sold the said land to the second accused, who in turn mortgaged the same with the third accused, that the fourth accused is the document writer of the forged sale deed and the mortgaged deed, that the fifth accused had subsequently purchased



the land and constructed a house by obtaining LIC housing and that all the accused cheated the defacto complainant and hence, the defacto complainant filed suit in O.S.No.298 of 2019 pending on the file of the IV Additional District Court, Madurai.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution.

4. The learned Government Advocate (Criminal Side) would submit that there are totally five accused, that the fourth accused was reported dead, that the third accused along with co-accused is said to have impersonated the defacto complainant and fabricated false records in respect of the land owned by the defacto complainant and sold the same, that the petitioner has purchased the property on 18.05.2015 from the fourth accused and that the fifth accused had mortgaged the property with LIC Housing Finance Limited and obtained loan of Rs.33,00,000/- and after remittance of Rs.13,00,000/-, he has to pay a sum of Rs.20,00,000/- to the LIC Housing Finance Limited.

5. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner has filed an affidavit dated 17.10.2022 sworn by the petitioner/fifth accused, wherein, the petitioner has given an undertaking to pay the remaining amount of Rs.20,00,000/- to the LIC Housing Finance Limited within a period of two months.

6. It is not in dispute that the third accused was already granted anticipatory bail by the Principal Sessions Court, Madurai.

7. Considering the above facts and circumstances and also the facts that the third accused was already granted anticipatory bail by the Principal Sessions Court and that the petitioner is not having any bad antecedents and also taking note of the undertaking affidavit filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

(*)8. Accordingly, the petitioner shall deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand Only) before LIC Housing Finance Limited towards the loan amount due by him, without prejudice to his rights and contentions within a period of three weeks from the date of receipt of a copy of this order.

9. On production of such receipt/acknowledgment, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the learned Judicial Magistrate, Vadipatti, Madurai District on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)**



with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(*) (b) the petitioner shall deposit the remaining amount of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand Only) before LIC Housing Finance Limited towards the loan amount due by him, without prejudice to his rights and contentions within a period of five weeks thereafter, failing which, the anticipatory bail granted to the petitioner shall stand automatically cancelled.

(c) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

(d) the petitioner shall not tamper with the 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]**; and;

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

sd/-

19/10/2022

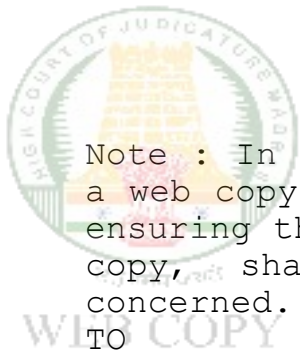
(*) Amended as per order of this Hon'ble Court in CRL MP(MD).14466/2022 in CRL OP(MD).16695/2022 dated 25/11/2022 by AANJ.

The time for surrender and execution of sureties is extended by two weeks from the date of receipt of a copy of this order.

/ TRUE COPY /

/12/2022

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.

1. THE JUDICIAL MAGISTRATE, VADIPATTI, MADURAI DISTRICT.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

3. THE INSPECTOR OF POLICE,
ALANGANALLUR POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to M/S.MANIVELPANDIAN M.M. Advocate SR.No.50365(f)

+1. CC to Mr.V.Madurai Veeran, Advocate SR.No.13706.

ORDER

IN

CRL OP(MD) No.16695 of 2022

Date :19/10/2022

RK/BUC/SAR-2 (26/10/2022) 4P/6C

MK/BUC/SAR IV/07.12.2022/4P/7C