



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/12/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.17879 of 2022

1. Krishna Nivashini
2. Kasiramalingam
3. Muthulakshmi

... Petitioners/1,2 & 4 Accused

Vs

The State Rep.by
The Sub Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi District
(Crime No.274 of 2022).

... Respondent/Complainant

For Petitioners : M/s.Gokulraj S, Advocate.

For Intervener : Mr.Shankar Shanmugam, Advocate.

For Respondent : Mr.M.Veeranthiran,
Government Advocate (Crl.Side)

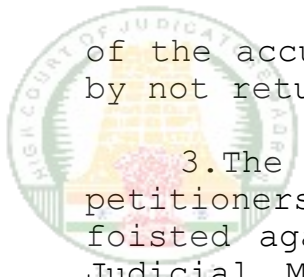
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory Bail in Crime No.274 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 294(b), 506(ii), 120(B) of I.P.C, in Crime No.274 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Avudaiappan is that the accused persons were known to him and they were family friends. Taking advantage of the friendship, the accused persons had approached and informed him that they have a plot *admeasuring* 4.13cents at Balavinayagar Temple and started construction of a house in the said plot. Since they were in need of money for construction of house they had sought for a loan from the defacto complainant. Pursuant to which, the defacto complainant had deposited amount to the tune of Rs.61 lakhs in the bank accounts



of the accused persons. Later, the accused persons had cheated him by not returning the money. Hence, the complaint.



3.The learned counsel for the petitioners submitted that the petitioners are innocent and due to money dispute, a false case was foisted against them, based on the direction given by the learned Judicial Magistrate No.II, Thoothukudi under Section 156(3) of Cr.P.C in CrI.M.P.No.10586 of 2022. He would further submit that the reading of the complaint would show that there is no allegation that the petitioners had an intention to cheat the defacto complainant and the ingredients of offence under Section 420 IPC are not made out as against the petitioners. The defacto complainant is trying to give a criminal colour to the money dispute regarding non repayment of loan. However, the learned Counsel representing the petitioners would submit that the petitioners without prejudice to their defence to show their *bona fides* are ready and willing to deposit title deeds worth of Rs.20,00,000/- either belonging to themselves or friends or relatives or in the alternative, they are also ready to furnish solvency before the Court concerned, within a period of three weeks. Hence, prays to release them on anticipatory bail.

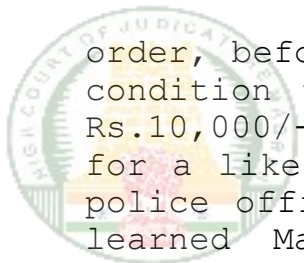
4.The learned Government Advocate (CrI.Side) submitted that based on the direction given by the learned Magistrate, under Section 156(3) Cr.P.C, the case came to be registered against the petitioners. The petitioners had approached the defacto complainant that they are having a plot *admeasuring* 4.13cents at Balavinayagar Temple and intended to construct a house, for which, they were in need of money. Believing their words, the defacto complainant had deposited the amount to the tune of Rs.61 lakhs into their accounts on various dates. Later, they cheated him.

5.The learned counsel for the intervener raised his objection to dismiss the petition.

6.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7.Taking into consideration the facts and circumstances of the case and considering the readiness and willingness of the petitioners to deposit title deeds worth about Rs.20 lakhs, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, this Criminal Original Petition is allowed and the petitioners shall jointly deposit the original title deeds of immovable property to the value of Rs.20,00,000/- (Rupees Twenty Lakhs only) either belonging to themselves or friends or relatives, without prejudice to their rights and contentions, before the trial Court, on such deposit being made, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of **three weeks** from the date of receipt of a copy of this



order, before the learned **Judicial Magistrate No.II, Thoothukudi** on condition that the petitioners shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) each 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(a) the petitioners 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 Aadhar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent Police daily at 10:30 a.m., until further orders;

(c) the petitioners shall not tamper with the 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/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

19/12/2022

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/01/2023

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

TO

1 THE JUDICIAL MAGISTRATE NO.II
THOOTHUKUDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT.

3 THE SUB INSPECTOR OF POLICE
THOOTHUKUDI CENTRAL POLICE STATION,
THOOTHUKUDI DISTRICT

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

+1 CC to M/s.GOKULRAJ S, Advocate (SR-15151[I] dated 20/12/2022)
ORDER

IN

CRL OP (MD) No.17879 of 2022

Date :19/12/2022

PNM

MK/SSS/SAR II/05.01.2023/3P/6C

<https://www.mhc.tn.gov.in/judis>