



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P (MD) No.96 of 2023

1.Malliga
2.Madasamy
3.Kumar

...Petitioners/Accused Nos.1 to 3

-vs-

State through by
The Inspector of Police,
Vilathikulam Police Station,
In Crime No. 342 of 2022
Tuticorin District

...Respondent/Complainant

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

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.342 of 2022 on the file of the respondent Police.

For Petitioners : Mr.C.Susi Kumar, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

For Intervenor : Mr.G.Thiruchandran, Advocate

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 406, 420, 448, 506(ii) and 379 IPC in Crime No.342 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant Jothimani is that he has contested the legislative assembly election during the year 2019 as AAMK candidate and towards expenses, he had borrowed an amount of Rs.32 lakhs from the second accused Madasamy on 17.02.2011 and towards security he had agreed to execute a formal security deed in respect of Survey No.57/1 and 92/3 in Koralayampatti



Village, Vilathikulam and thereby the second accused asked to execute a sale deed in favour of his wife and later on 26.06.2022 he had taken Rs.32 lakhs and offered to return to the second accused and asked him to re-convey the property in his name whereas the second accused had informed that he has transferred a patta in favour of his wife, the first accused and when the defacto complainant had questioned him, they have threatened him and they have also demolished the house of the defacto complainant. Earlier the petitioner had given a complaint to the respondent police and enquiry has been conducted in CSR No.488 of 2022 and since no action was taken, the defacto complainant had preferred the complaint before the Judicial Magistrate and based on the directions issued by the learned Magistrate, the case came to be registered for the offences under Sections 294(b), 406, 420, 448, 506(ii) and 379 IPC.

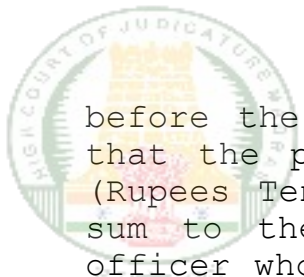
3.The learned counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would also submit that the defacto complainant after receiving a sum of Rs.32 lakhs from the second petitioner had executed a sale deed in favour of the first petitioner and admittedly, it is a clear sale transaction and later, coming to know escalation of price of land, a false case has been given. He would further submit that on the basis of the earlier complaint, enquiry has been conducted and the respondent police, finding that it is a civil dispute, had not taken any further action and the defacto complainant has obtained an order of the court based on which the case has been registered. He would further submit that the petitioners have also approached this Court seeking quashment of FIR in CrI.OP(MD)No.398 of 2023 and this Court by order dated 09.01.2023 had directed the respondent police not to file final report. He prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) would submit that the case has been registered based on the direction issued under Section 156(3) CrI.P.C by the Magistrate and he would submit that investigation is pending. Hence, he prays for dismissal of this application.

5. The learned counsel for the intervenor would submit that the the defacto complainant had approached the petitioners for loan and as security he had executed a sale deed of the property and they have cheated them. Hence, he would object for grant of anticipatory bail to the petitioner.

6.Heard the learned Counsel. Taking into consideration the facts and circumstances of the case, 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 arrest or on their appearance, within a period of 15 days from the date on which the order copy made ready,



before the learned Judicial Magistrate, Vilathikulam, on that the petitioners shall execute 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 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 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 everyday at 10.30 a.m for a period of two weeks and thereafter every Saturday at 10.30 am until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

23/01/2023

/ TRUE COPY /

/01/2023

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

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TO

1 THE JUDICIAL MAGISTRATE,
VILATHIKULAM.

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



CRL.O.P(M



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3 THE INSPECTOR OF POLICE
VILATHIKULAM POLICE STATION,
TUTICORIN DISTRICT.

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

+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-1093[I] dated 24/01/2023)

ORDER

IN

CRL OP(MD) No.96 of 2023

Date :23/01/2023

PKP/SSS/SAR-3/30.01.2023/4P/6C