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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.1948 of 2023

1.T.P.Krishnamaraja

2.K.Vasanthi

... Petitioners / Accused Nos.1 & 2

Vs

1.State Rep by

The Inspector of Police,
District Crime Branch Police Station,
Virudhunagar District.

(In Crime No.12 of 2022).

... Respondent / Complainant

2.G.Rajesh

... Petitioner / Intervener

in CRL MP(MD) No.2270 of 2023

For Petitioners : Mr.R.J.Karthick, Advocate

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For Intervenor : Mr.N.Sathish Babu

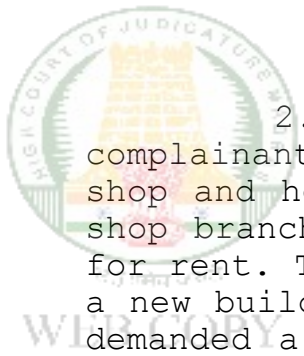
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.12 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused Nos.1 and 2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 406 and 420 of I.P.C., in Crime No.12 of 2022 on the file of the respondent police, seek anticipatory bail.

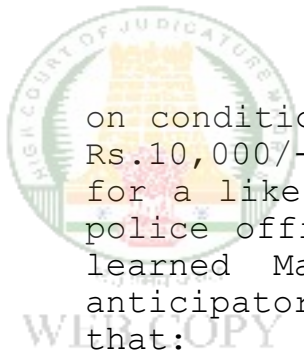


2. The case of the prosecution is that the complainant namely G.Rajesh is one of the Director of the Jewelry shop and he approached the first petitioner to start a new jewelry shop branch at Rajapalayam in the premises of the first petitioner for rent. The first petitioner informed that he intends to construct a new building and the expenses for constructing a new building, he demanded a sum of Rs.50,00,000/- as advance and the same would be deducted from the monthly rent to be paid. Though the defacto complainant requested the first petitioner to execute a deed, he promised to execute a deed, after the completion of the construction. As such, the defacto complainant totally paid a sum of Rs.1,85,00,000/-. But the first petitioner did not complete the construction work. While so, the first petitioner executed a settlement deed, dated 25.10.2019 to the second petitioner and his sons. Hence, the defacto complainant lodged a complaint before the Superintendent of Police, Virudhunagar and the same was forwarded to the Deputy Superintendent of Police, Rajapalayam. Since no action has been taken, the defacto complainant filed a petition under Section 156(3) of Cr.P.C before the learned Judicial Magistrate No.II, Virudhunagar, to register the FIR. Pursuant to the order passed by the learned Judicial Magistrate No.II, Virudhunagar in Crl.M.P.No.222 of 2022, dated 05.04.2022, the respondent Police registered the above FIR. Hence, the case.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. It is seen that the defacto complainant is a tenant and so far, he paid a sum of Rs.55,00,000/- in order to demolish and construct a new building. Subsequently, the entire plan was dropped. Therefore, the petitioners filed a suit as against the defacto complainant for permanent injunction in O.S.No.94 of 2021 on the file of the learned District Munsif, Rajapalayam. On receipt of the suit summons, the defacto complainant lodged the present complaint. The defacto complainant was advised to approach the civil Court, since the entire allegations are civil in nature. However, the defacto complainant, without approaching the civil Court for appropriate relief, filed a petition before the learned Judicial Magistrate No.II, Virudhunagar, seeking a direction under Section 156(3) of Cr.P.C., in which, a direction was issued to the respondent to register the F.I.R. As directed by the learned Judicial Magistrate No.II, Virudhunagar, the respondent Police registered the F.I.R in Crime No.12 of 2022 as against the petitioners. Therefore, the custodial interrogation of the petitioners is not required and this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions:

5. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made before the learned Judicial Magistrate No.II, Virudhunagar,



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 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., for a period of two weeks and thereafter 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]**.

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

sd/-

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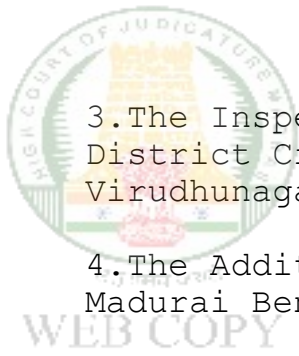
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PS

To

1.The Judicial Magistrate No.II,
Virudhunagar.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.



3.The Inspector of Police,
District Crime Branch Police Station,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.1948 of 2023

Date :07/03/2023

ED/MMS/SAR- 3(14/03/2023) 4P 5C