



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

Thursday, the Ninth day of February Two Thousand and Twenty Three

PRESENT

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

CRL OP(MD) . No.2084 of 2023

Paulraj

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Dindigul District.
In Crime No.34 of 2022

... Respondent/Complainant

For Petitioner : Mr.Jegadish Pandian

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

For Intervenor : Mr.J.Gunaseelan Muthaiah

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

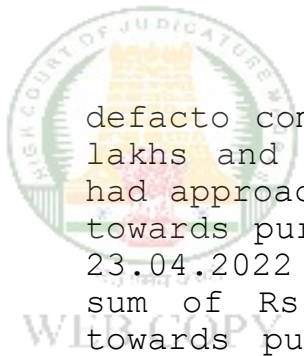
PRAYER :-

For Anticipatory Bail in Crime No. 34 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(B) and 420 I.P.C in Crime No.34 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant John Christopher is that he owns the land at Palani Chathirapatti and the said land was mortgaged to one Seenivasan and from the same land, the defacto complainant decided to sell 15 cents of land to one Mohan, for that the defacto complainant received a sum of Rs.4,35,000/- (Rupees four lakhs and thirty five thousand only) from Mohan. As per rules and guideline issued by the Department of Registration, the sale deed has not been executed since the extent of land is less than 21 cents. Therefore the



defacto complainant had returned a sum of Rs.2,50,000/- (Rupees two lakhs and fifty thousand only). Later, the petitioner/accused No.1 had approached the defacto complainant and expressed his willingness towards purchase the land in as is where is basis. Thereafter, from 23.04.2022 to various dates the petitioner has made an advance of sum of Rs.5,45,000/- (Rupees five lakhs and forty five thousand) towards purchase. Subsequently, the petitioner demanded a sum of Rs.11,00,000/- (Rupees eleven lakhs only) to get back the mortgaged land from the said Seenivasan and the same was accepted by the defacto complainant and he gave a sum of Rs.11,00,000/- (Rupees eleven lakhs only) to all the accused persons on two occasions. After receiving the money, the accused persons did not fulfill their promise. When the same was questioned by the defacto complainant, all the accused persons refused to repay the money and they had cheated the defacto complainant for the tune of Rs.5,55,000/-, the present complaint has been lodged.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and a false complaint has been given against him and his family members. He would submit that it is true that the petitioner had some transaction with the defacto complainant in respect of which the defacto complainant has taken vengeance and has demanded huge amount from the petitioner and he has given a false complaint and the petitioner and his family members were falsely implicated in this case. He would further submit that the co-accused in this case have been granted anticipatory bail by this Court in Crl.O.P.No.22091 of 2022 by order dated 03.01.2023 on condition to deposit Rs.2,50,000/- to the credit of Crime Number 34 of 2022 before the court. According to the learned counsel, the family members of the petitioner have deposited the said amount on 19.01.2023. He would also submit that the petitioner is ready to deposit Rs.1,50,000/- to the credit of Crime No.34 of 2022 without prejudice to his rights and contentions. He would seek for grant of anticipatory bail to the petitioner.

4. The learned counsel for the petitioner would submit that the petitioner is a practising Advocate and he has been falsely implicated and therefore he submits that though the jurisdictional Magistrate is Judicial Magistrate No.II, Dindigul, the petitioner may be permitted to produce sureties before the Judicial Magistrate, Natham.

5. The learned Government Advocate (Crl.Side) submitted that the defacto complainant had mortgaged his property with one Seenivasan and the accused had induced the defacto complainant by saying that as per the suggestion of the local area people, they would retrieve the property from the said Srinivasan if the defacto complainant gives Rs.11 lakhs and believing their words, the defacto complainant gave Rs.8,50,000/- and Rs.2,50,000/- in two times. Hence, he prays to dismiss this application.



6. Mr.Gunaseelan Muthaiah, learned counsel for the intervenor submitted that the intervenor had mortgaged the property with one Seenivasan. However, as per the directions of the local area people, the accused induced the defacto complainant by stating that if he would give Rs.11 lakhs, they will retrieve the property from the said Seenivasan and believing their words, the defacto complainant has paid Rs.11 lakhs to the accused on 06.10.2022 and they have not settled the amount to Seenivasan and cancelled the mortgage deed till date.

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

8. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Natham**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner shall deposit Rs.1,50,000/- (Rupees one lakh and fifty thousand only) to the credit of Crime No.34 of 2022 before the learned Judicial Magistrate No.II, Dindigul, and shall produce the proof for the same before the Judicial Magistrate, Natham;

[b] the petitioner 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.

[c] the petitioner shall report before the respondent Police Station everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

[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 [(2019) 4 SCC 556]**; and;
[g] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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sd/-
09/02/2023

/ TRUE COPY /

/02/2023

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

CM

TO

1. THE JUDICIAL MAGISTRATE, NATHAM.
2. THE JUDICIAL MAGISTRATE NO.II, DINDIGUL.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.
4. THE INSPECTOR OF POLICE,
DEVARKULAM POLICE STATION, TIRUNELVELI
DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.JEGADEESH PANDIAN.M Advocate SR.No.2222(I)

+1. CC to M/S.GUNASEELAN MUTHIAH.J Advocate SR.No.7388(F)

ORDER
IN
CRL OP(MD) No.2084 of 2023
Date :09/02/2023

NA/SBN/SAR-I/20.02.2023/4P/8C