



WEB COPY

CRL OP(MD).



23

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

Date : 06/03/2023

PRESENT

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

CRL OP(MD) . No.2448 of 2023

S.Gnanammal

... Petitioner / Accused No.1

Vs

1.The State by The State Rep.by
The Inspector of Police,
District Crime Branch,
Dindigul District.
(Crime No.4 of 2023.)

... Respondent / Complainant

2.Logeswari

... Petitioner / Intervener /
Defacto Complainant
in Crl MP(MD) No.2460 of 2023

For Petitioner : M/s.Balakrishnan T, Advocate.

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

For Intervenor : M/s.S.Prabha

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

PRAYER :-

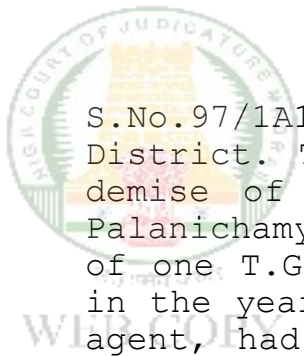
For Anticipatory Bail in Crime No.4 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 409 and 420 of I.P.C., in Crime No.4 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant along with one Rani D/o Mariappan and Jeedupernad S/o Penjamin had acquired a piece of land to an extent of 1 acre and 86 cents comprised in

<https://www.mca21.com/judis>

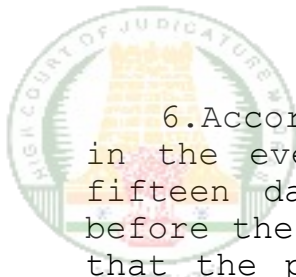


S.No.97/1A1 at Thottanoothur Village, Dindigul Taluk, District. The said land originally belongs to one Mariappan. After demise of the said Mariappan, his legal heirs, viz., Muthammal, Palanichamy and Panneer were executed a power of attorney in favour of one T.G.Ganesh, who is the husband of the de-facto complainant, in the year 2013. The said T.G.Ganesh in the capacity of as a power agent, had executed a sale deed in favour of C.Rani, G.Lokeshwari and Feedufernard. Further, the said land was being converted into a housing plot as much as 43 plots and its named "Co-optex Nagar", out of 43 plots, the de-facto complainant being owned 38 plots. But she has faced some difficulty marketing the same. Therefore, she has executed a power of attorney deed in favour of the petitioner in order to maintain and marketing the subject matter land in her place. Further, the petitioner has not handed over the sale consideration to the de-facto complainant. The de-facto complainant being felt that she was cheated by the petitioner, immediately, she has made a complaint before the respondent police on 16.08.2021, but the respondent police had refused to register an FIR. Therefore, the de-facto complainant approached the Superintendent of Police, Dindigul, but he has also refused to register the FIR against the petitioner. Therefore, the de-facto complainant filed a petition under Section 156(3) of Cr.P.C before the learned Judicial Magistrate No.II, Dindigul, wherein, the learned Magistrate has ordered to register the case if there is any prima facie case made out. Based on the directions given by the learned Magistrate, the respondent police registered an FIR in Crime No.4 of 2023 against the petitioner.

3.Heard the learned counsel on either side.

4.On the complaint lodged by the de-facto complainant, the respondent police did not register any FIR. Therefore, the de-facto complainant was constrained to file a petition under Section 156(3) of Cr.P.C before the learned Magistrate and on the basis of the direction issued by the learned Magistrate, the respondent police registered the FIR against the petitioner in Crime No.4 of 2023. The main allegation against the petitioner is that she sold out the property and failed to convey the sale consideration to the de-facto complainant. The de-facto complainant had executed power of attorney in respect of the subject property and after selling the property, the petitioner has failed to hand over the sale consideration. The petitioner also produced some receipts showing that the de-facto complainant had already received the amount. Admittedly, the de-facto complainant executed power of attorney and on the strength of the power of attorney, the petitioner sold out the property. Therefore, the custodial interrogation of the petitioner is not required in this case.

5.In view the above, this court is inclined to grant anticipatory bail to the petitioner, with certain conditions:



6. Accordingly, the petitioner is ordered to be released in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Dindigul, 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 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 petitioner shall report before the respondent Police as and when required for interrogation;

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

[d] the petitioner 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 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].

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

sd/-

06/03/2023

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/03/2023

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

SJI

TO

1. The Judicial Magistrate No.II, Dindigul.

2. Do-Through The Chief Judicial Magistrate,
Dindigul District.

<https://www.mhc.org.in>



3. The Inspector of Police,
District Crime Branch,
Dindigul District.

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

+1. CC to M/S.BALAKRISHNAN T Advocate SR.No.3445(I), dated
06.03.2023

ORDER

IN

CRL OP(MD) No.2448 of 2023

Date :06/03/2023

ED/SBN/SAR-4 (15/03/2023) 4P 6C