



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

PRESENT

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

CRL.O.P(MD)No.3396 of 2023

WEB COPY

Sanjai

...Petitioner/Accused

-vs-

The State represented by
The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
Crime No. 293 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.293 of 2022.

For Petitioner

: Mr.R.Gandhi

Senior Counsel

For Respondent

: Mr.A.Albert James

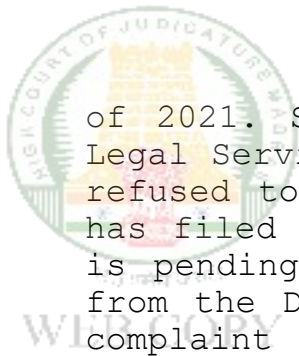
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 406, 420 and 506(i) IPC in Crime No.293 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Mahalingam is that he and his wife are involved in construction business and the petitioner is a Government contractor and both of them entered into an agreement with regard to construction of corporation building in Nagercoil and as per the agreement, the petitioner ought to have paid Rs.84,15,300/- whereas he paid Rs.54,31,998/- and when the defacto complainant asked the remaining amount of Rs.29,83,302/-, the petitioner threatened him with dire consequences and abused him with filthy language. Hence, the case.

3.Mr.Gandhi, learned Senior Counsel appearing for the petitioner would submit that a case of contractual dispute has been falsely projected as a case of criminal in nature. He would submit that the petitioner has paid the entire amount as per the agreement and later, the defacto complainant has received excess amount to the tune of Rs.9,79,823/-. However, he failed to complete the work as per the agreement and thereby the petitioner had earlier filed a complaint dated 26.04.2021 against the defacto complainant before Vadaseri Police Station and an enquiry was conducted in CSR No.302



of 2021. Subsequently, the petitioner had approached the Legal Services Authorities for mediation and the defacto complainant refused to participate in mediation and thereafter, the petitioner has filed a suit before the District Court, Nagercoil and the same is pending in O.S.No.34 of 2022 and only after receipt of summons from the District Court, the defacto complainant has given a false complaint as if the petitioner has committed criminal breach of trust. He would also submit that the petitioner is ready to abide by any condition that may be imposed by this Court and he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that as per the complaint, the petitioner has induced the defacto complainant and obtained a sub contract and thereafter, the petitioner refused to pay an amount of Rs.29 lakhs. Hence, he would object for grant of anticipatory bail to the petitioner.

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

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.2, Nagercoil, 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 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 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 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.

WEB COPY

sd/-
22/02/2023

/ TRUE COPY /

/03/2023

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

CM

To

1.The Judicial Magistrate No.2, Nagercoil.

2. The Chief Judicial Magistrate, Kanyakumari at Nagercoil

3.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

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

+1 CC to M/s.J.KARTHIKEYAN, Advocate (SR-2718[I] dated 22/02/2023)

CRL OP(MD) No.3396 of 2023
Date :22/02/2023

KB/SS/S4(08.03.2023) 3P 6C