



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18.04.2023

WEB COPY

PRESENT

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

CRL OP(MD)No.7101 of 2023

Mohamed Ashiq

... Petitioner

Vs

State throgh
The Inspector of Police,
Airport Police Station,
Trichy District.
(In Crime No.907 of 2022)

... Respondent/Complainant

For Petitioner : Mr.R.Alagumani

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

For Intervenor : MR.S.Nihav Ali

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

PRAYER :-

For Anticipatory Bail in Crime No.907 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 420 and 506(i) IPC in Crime No.907 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is an engineer and he entered into an agreement to construct a building to the defacto complainant and on 05.10.2019, the petitioner received an amount of Rs.9,80,000/- as advance and till 10.03.2020, he received a sum of Rs.21,50,000/- and delayed to construct the building and all of a sudden, the petitioner stopped the construction work and stated that he was not able to construct the work and allegedly agreed to repay the balance amount as as per the report of engineer the cost of construction work is valued to the



amount of Rs.13,52,850/- to the defacto complainant. The defacto complainant and his wife went to the house of the petitioner, the petitioners and his family members attacked them and threatened them. Hence, the case.

3. Heard both sides and perused the materials available in the record.

4. It is seen that the petitioner was allotted contract work to construct a building for the defacto complainant. As per the agreement, the petitioner completed the construction and there was dispute in respect of further claim by the petitioner. All the allegations are civil in nature. If any claim by the defacto complainant, he ought to have instituted civil suit. Hence, custodial interrogation of the petitioner does not require in this case.

5. Considering 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 Judicial Magistrate cum Additional Mahila Court, Trichy 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, daily at 10.30 A.M., for a period of two weeks and thereafter, 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 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/-
18/04/2023

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/04/2022

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

gns

TO

- 1.The Judicial Magistrate
cum Additional Mahila Court,
Trichy.
- 2.The Inspector of Police,
Airport Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL OP(MD)No.7101 of 2023
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KB/AR/SI(27.04.2023) 3P 4C