



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/04/2023

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PRESENT

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

CRL OP(MD) . No.7479 of 2023

L.Subramanian

... Petitioner

Vs

The Inspector of Police,
Central Police Station,
Tuticorin District.
(Crime No.558 of 2011)

... Respondent

For Petitioners : Mr.A.Natarajan
Senior Counsel for
Mr.R.Anandaraj, Advocate

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

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

PRAYER :-

For Anticipatory Bail in Crime No.558 of 2011 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 section 406 and 420 of I.P.C., in Crime No.558 of 2011 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are brothers. The petitioner has got 1/7th share in the subject property. The defacto complainant has sent A1 namely Muthiah with Rs.7 Lakhs to be given to the petitioner in order to relinquish his rights in the subject property. Since the property share value of the petitioner is more than Rs.7 Lakhs, he did not accept this arrangement and refused to receive the said amount and A1 had taken the money back. Thereafter, the petitioner has no knowledge about the said amount. In order to retaliate, the defacto complainant has made a false complaint against the petitioner as if



he received Rs.7 Lakhs and failed to sign the release deed. the complaint.

3. Heard the learned counsel appearing on either side and perused the materials available on record, including the First Information Report.

4. It is seen that the defacto complainant is none other than the elder brother of the petitioner. There was partition suit between them, in which, the petitioner was allotted 1/7th share. In order to release his share in favour of the defacto complainant, he paid a sum of Rs.7 Lakhs to the petitioner. After receipt of the amount, the petitioner failed to execute any release deed in favour of the defacto complainant. The learned Senior Counsel submitted that 1/7th share is more value than Rs.7 Lakhs. Therefore, the petitioner refused to receive any amount and sent back the said amount to the defacto complainant.

5. In view of the above, the crime is of the year 2011, now the respondent filed a final report and the same is taken cognizance in CC.No.11 of 2022 on the file of the learned Judicial Magistrate NO.II, Thoothukudi. That apart, all the issues in the complaint are civil in nature. Hence, the custodial interrogation of the petitioner does not require and this Court is inclined to grant anticipatory bail to the petitioner.

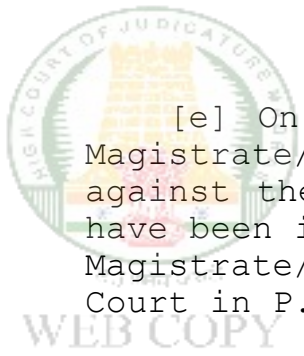
6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Thoothukudi, on condition that the petitioner shall execute a bond 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 the 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/-

21/04/2023

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

rmk

TO

1.THE JUDICIAL MAGISTRATE NO.II, THOOTHUKUDI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

3.THE INSPECTOR OF POLICE,
CENTRAL POLICE STATION,
TUTICORIN DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.ANANDARAJ, Advocate (SR-6357[I] dated 21/04/2023)

ORDER

IN

CRL OP(MD) No.7479 of 2023

Date :21/04/2023

RD/VRS/SAR-1(28/04/2023) 3P/6C