



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/06/2023

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PRESENT

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

CRL OP(MD). No.10824 of 2023

1. Hariff
2. Fathima

... Petitioners/Accused Nos.1 & 2

Vs

State Rep.by
The Inspector of Police,
Anna Nagar Police Station,
Madurai District.
(Crime No.213 of 2023).

... Respondent/Complainant

For Petitioners : Mr.Sankaran, Senior Counsel
for Mr.F.Deepak, Advocate.
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor
For Intervener : Mr.C.Balasubramaniam, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.213 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under sections 294 (b), 120(B), 406, 467, 420 of I.P.C., in Crime No. 213 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant planned to purchase a land in Madurai and he came to know through broker that the first petitioner has land along with the shop comprised in R.S.No.24/1 at Malamadai I Bit Village, Madurai North Taluk to an extent of 5 cents, The defacto complainant approached the petitioners to purchase their property and the sale consideration amount was fixed at Rs.1,40,00,000/- and he also paid an advance of Rs.1,10,00,000/-.Thereafter, the defacto complainant came to know that the above said property was pledged in a Bank and



complainant, the petitioners repaid a sum of Rs.52,50,000/- the remaining amount of Rs.57,50,000/- is not yet paid by the petitioners and then, cheated the defacto complainant.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. He would further submit that the petitioners proposed to sell the property comprised in R.S.No.24/1 at Malamadai I Bit Village, Madurai North Taluk to an extent of 5 cents for the total consideration of Rs.1,40,00,000/- to the defacto complainant. They also entered into an agreement for sale with the defacto complainant, dated 16.10.2022 and received a sum of Rs.1,10,00,000/- as an advance. In fact, there was already charge over the property by Shriram Transport Finance Company Limited. They also initiated SARFAESI proceedings and the said proceeding was challenged before this Court in W.P.(MD)No.27210 of 2022 and obtained an order of interim stay in respect of auctioned the property, now, it is pending. Therefore, the petitioners could not be able to sell the property in favour of the defacto complainant and also return Rs.52,50,000/- as part of the advance amount. That apart the petitioners also handed over the title deed in favour of the defacto complainant. they also ready and willing to co-operate the investigation. He would further submit that it is a civil transaction and as if the custodial interrogation of the petitioner is not necessary.

4. Per contra, the learned counsel for the defacto complainant would submit that the petitioners suppressed the fact that already SARFAESI proceedings is pending against the property and agreed to sell the property in favour of the defacto complainant. They also received Rs.1,10,00,000/- as advance. Thereafter, the defacto complainant came to know about the SARFAESI proceedings against the subject property. So far they are received two title deed as stated by the learned counsel for the petitioners. They committed serious offence and the custodial interrogation is very much required.

5. Heard. Perused the materials available on record including the First Information Report.

6. On perusal of the records reveals that the first petitioner entered into an agreement with the defacto complainant for the subject property and agreed to sell the property for total consideration of Rs.1,40,00,000/-, and also received a sum of Rs.1,10,00,000/- as advance. The said subject property is for SARFAESI proceedings by the Financier called Shriram Transport Finance Company Limited, and it is pending. So far the petitioners settled only to the tune of Rs.52,50,000/- in favour of the defacto complainant. The petitioners submitted that they handed over two title deeds in favour of the defacto complainant as security and out of which, one of the deed value is very meagre amount and that is



7. The petitioners are ready and willing to pay such amount as imposed by this Court in order to show their *bona fide*.

8. Considering the submission made by the learned counsel for the petitioners and considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall jointly pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the defacto complainant directly and the petitioners shall deposit the original sale deed, which stands in the name of the petitioners or their relatives, friends not less than the value of Rs.50,00,000/- (Rupees Fifty Lakhs only), after obtaining proper valuation certificate from the competent authorities concerned, in Crime No.213 of 2023, before the Judicial Magistrate No.VI, Madurai, within a period of four weeks.

9. On such deposit being made, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of **four weeks** from the date on which the order copy made ready, before the learned judicial Magistrate No.VI, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners 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 first petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation. The second petitioner shall report before the respondent Police as and when required for interrogation.

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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].



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

sd/-

19/06/2023

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20/06/2023

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

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LS

1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE, ANNA NAGAR POLICE STATION,
MADURAI DISTRICT.

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

+1 CC to M/s.F.DEEPAK, Advocate (SR-9093[I] dated 20/06/2023)

ORDER

IN

CRL OP(MD) No.10824 of 2023

Date :19/06/2023

RS/SSS/SAR-(20.06.2023) 4P 6C