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CRL OP(MD). A



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/06/2023

PRESENT

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

CRL OP(MD). No.11454 of 2023

Prabhakaran

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
District Crime Branch Police Station,
Theni District
(Crime No.25 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Vikram S, Advocate.
For Intervenor : Mr.R.Anand, Advocate
for M/s.P.Suresh, Advocate
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.25 of 2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner /A2 who was arrested and remanded to judicial custody on 12.06.2023 for the offences under sections 417,420 and 120(B) of IPC in Crime No.25 of 2023 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the defacto complainant had sent Rs.35 lakhs to A1 through bank transfer to build a house for her,but A1 had cheated her by not doing any construction work. When the defacto complainant questioned the same A1 told that he would sell his land worth about Rs.35 lakhs and at that time he had received Rs.8 lakhs from the defacto complainant for registration. Later it was revealed that the land received from A1 was panchami land. A1 arranged a purchaser A2 to purchase the disputed land from the defacto complainant, hence the case.



3. Heard both sides and perused the materials available on record including the First Information Report.

4. It is seen that there are totally two accused in this case and the petitioner here is arrayed as A2. The case of prosecution is that the defacto complainant was cheated by the first accused on the pretext of construction of a house. Towards settlement the first accused had executed settlement in favour of the defacto complainant in the year 2013. Thereafter the defacto complainant entered into agreement for sale with the petitioner in the year 2021. The defacto complainant also registered sale deed in favour of A3. Thereafter the petitioner has filed a suit in O.S.No.120 of 2021 on the file of the Additional District Court, Theni. Challenging the sale deed executed in favour of the second accused and also suit for specific performance. After receipt of notice in the judgment the present complaint has been filed by the defacto complainant.

5. Per contra the learned counsel for the defacto complainant would submit that A1 to A3 cheated the defacto complainant to the tune of Rs.44,00,000/-. She had entrusted with the first accused the construction of building, however he cheated her. For repayment he had executed sale deed in respect of panchami land. He also set up A2 and A3 to sell the property for sale consideration and cheated her. However after receipt of notice from the civil Court she came to understand that she was cheated by the accused person, hence he objected to grant bail to the petitioner.

6. Taking into consideration the facts and submissions made by the learned counsels and also the period of incarceration this court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to 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 learned Judicial Magistrate, Theni and on further conditions that:

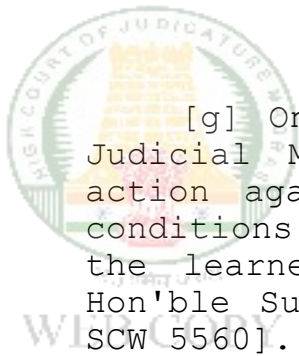
[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] 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.

[d] the petitioner shall not commit any offences of similar nature.

[e] the petitioner shall not abscond either during investigation or trial.

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



[g] On breach of any of the aforesaid conditions, the Judicial 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].

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

sd/-

26/06/2023

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26/06/2023

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

AAV

TO

- 1 THE JUDICIAL MAGISTRATE, THENI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
- 3 THE OFFICER INCHARGE, SUB JAIL, PERIYAKULAM, THENI DISTRICT.
- 4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH POLICE STATION, THENI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.VIKRAM, Advocate (SR-9556[I] dated 26/06/2023)

ORDER

IN

CRL OP(MD) No.11454 of 2023

Date :26/06/2023

RS/SSS/SAR-(26.06.2023) 3P 7C