



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13.03.2023

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PRESENT

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

CRL OP(MD)No.15771 of 2022

Umarul Farooque

... Petitioners/Sole Accused

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Karur District.
Crime No.17 of 2022

... Respondent/Complainant

M/S.Mufra Steels & Alloys,
Represented by its
Managing Partner,
R.M.Ramshad

... Petitioner/Intervener/Defacto Complainant
in Crl MP(MD).10811/2022 in Crl OP(MD).15771/2022

For Petitioner : Mr.J.Sulthan Basha, Advocate
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor
For Intervenor : Mr.C.R.M.Prabhu, Advocate

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

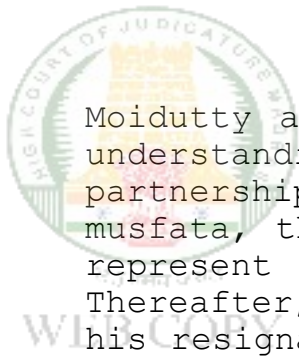
PRAYER :-

For Anticipatory Bail in Crime No.17 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 468, 406 and 420 IPC in Crime No.17 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the managing partner in the partnership firm namely M/s.Mufra Steels & Alloys" situated at Karur District. The said firm is constituted with majority of persons who have been for generations engaged in the business of steel manufacturing and selling. On the basis of the constitution of the said firm, Mohammed Mustafa, Ramshad,



Moidutty and the petitioner here were the partners. According to understanding between the partners and the recitals in the partnership deed dated 21.01.2021 the above mentioned Mohammed musfata, the managing partner is only having the legal authority to represent the firm before any third party or authorities. Thereafter, the above mentioned partner firm the petitioner tendered his resignation to the board of the firm on 03.12.2021 and the same was accepted by the board of the firm. For effecting the same, a relinquishment deed and retirement deed was executed on 04.12.2021 and 05.12.2021 respectively between the new partners. Thereafter, upon exit of the petitioner, the said firm was reconstituted and the firm was duly registered under Section 58(1) of the Indian Partnership Act 1932 by the Registrar of Firms on 07.02.2022. While this being so, on 12.03.2022 they received summon alleging that agreement for sale of firm assets executed between the petitioner herein and one Mohammed Shabnaval Asfar vide an unregistered sale agreement dated 28.12.2021 for sale consideration of Rs.2 crores. After receiving summon only, they came to know about such fraudulent sale agreement. Hence, the case.

3. Heard and perused the materials available in the records.

4. It is seen that the petitioner filed a suit in this regard in O.S.No.46 of 2022 on the file of the Judicial Magistrate cum District Munsif, Aravakurichi as against the defacto complainant and other partners. On perusal of the suit, the following prayers are prayed:

a) Declaring that the first defendant partnership firm M/s. Mufra Steels and Alloys was already dissolved between the four partners viz. The plaintiff and defendants 2 to 4 as per the terms and conditions of the settlement agreement dated 09.10.2021 mutually agreed and signed by them in accordance with the provisions of Section 40 of the Indian Partnership Act 1932 before the Arbitrator cum Auditor Mr. PP Mohan;

b) Passing an order of mandatory injunction directing the defendants 2 to 4 to sell the suit properties of the first defendant Partnership Firm along with the plaintiff as per the terms and conditions made in Clause C of the mutual settlement agreement dated 09.10.2021 to 3rd party/3rd parties and to receive the sale price separately according to their partnership ratio of partnership deed dated 21.1.2021 from the interested buyer/s;

c) passing an order of permanent injunction to restrain the defendants their men and agents or anyone on their behalf from in any manner interfering with plaintiff's 1/3rd share in the suit properties either by making any sham



nominal documents like lease deeds, mortgage deeds to parties or to Banks, sale deeds or sale agreements or any other encumbrances whatsoever till the properties are sold jointly by the four dissolved partners;

d) passing an order of permanent injunction to restrain the defendants their men and agents or anyone on their behalf from in any manner interfering with plaintiff's peaceful possession and enjoyment of his 1/3rd partnership rights in the first defendant firm and its suit properties either by preventing the plaintiff from entering into the suit properties or in any manner whatsoever till the properties are sold jointly by the four dissolved partners;

5. Therefore, the entire issues involved in this crime, already raised before the civil Court and the suit is pending. Therefore, custodial interrogation of the petitioner in this case does not require. Hence, 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, Aravakurichi 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 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/-

13/03/2023

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

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TO

1 THE JUDICIAL MAGISTRATE, ARAVAKURICHI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.

3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
KARUR DISTRICT.

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

+1 CC to M/s.SULTHAN BASHA J, Advocate (SR-4300[I] dated 15/03/2023)

ORDER

IN

CRL OP(MD) No.15771 of 2022

Date :13/03/2023

RS/CG/SAR-4 (24.03.2023) 4P 6C