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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 12/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP(MD)No.15134 of 2023

1.Porkodi

2.Shanmugam

: Petitioners/ A1 and A2

Vs.

State rep. by
The Sub Inspector of Police,
Sivakasi Town Police Stataion,
Virudhunagar District.
(Crime No.251 of 2023)

: Respondent/ Complainant

SP.Ramu

...Petitioner/Defacto Complainant
in Cr.M.P.No.12955 of 2023

For Petitioners : Mr.M.Jothi Basu,
Advocate

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

For Intervenor : Mr.RM.Arun Swaminathan,
Advocate

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

PRAYER:-For Anticipatory Bail in Crime No.251 of 2023 on the file of the
Respondent Police.



ORDER: The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 apprehend arrest at the hands of the respondent police for the offences punishable under sections 406 and 420 IPC, in Crime No.251 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is brief:-

The de-facto complainant lodged a complaint stating that the first accused namely Porkodi became friendly with her and in the course of above said friendship, she requested Rs.20,00,000/- as hand loan. The amount was also transferred in her account on 09/12/2020 through cheque. A mortgage deed was executed by the first accused for the above said loan amount, mortgaging the property situated in TS No.8 measuring about 974 sq. feet for about two years. She also handed over the original document bearing No.1170/2017. She also agreed to pay Rs.1.50/- at the rate of interest for Rs.100/- per month. But later failed either return the principal amount or payment of interest. On a particular day, they visited the above said property and found that the some other third party has purchased the property. So they obtained Encumbrance Certificate and found that on 23/09/2021, the property was sold in favour of one Ramalakshmi. On enquiry, no proper reply was given. So she lodged a



complaint against the first petitioner and her husband, who is A2, who earlier executed the above said sale deed. On that basis, a case in Crime No.251 of 2023 was registered for the offences stated above.

3. Seeking anticipatory bail, this petition has been filed by the petitioners stating that A2 namely Shanmugam was having business dealings with the husband of the de-facto complainant; He obtained loan amount and later also repaid the same; Only as security on 09/10/2020, the de-facto complainant obtained the signature in the unfilled stamp papers; Rs.10,00,000/- was repaid with interest. But claiming more interest and principal amount, the complaint was given, over which, repeated applications were filed by the petitioner before this court in CrI.OP(MD)Nos.5119 and 5247 of 2023 and those applications were disposed of.

4. Heard both sides. The intervenor has entered appearance and also filed documents.

5. As mentioned in the preamble portion, suppressing the mortgage and handing over of the title document, sale was effected in favour of the third party in respect of the mortgaged property.

6. The learned counsel appearing for the petitioners would rely upon the suit filed in O.S No.8 of 2023 on the file of the District Munsif Court, Sivakasi against the husband of the de-facto complainant namely Subbaiah and other persons, for



permanent injunction in respect of the above said mortgaged property.

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7.Per contra, the learned counsel appearing for the intervenor/de-facto complainant would rely upon the mortgage deed executed by the first accused.

8.Reading of the above said mortgage deed shows that the first accused stated to have received Rs.20,00,000/- and mortgaged the property. Without redemption or even without making any reference to the above said document. The property has been sold to the third party.

9.Suppression of facts itself through mortgage and the sale deed will prima facie amounts to cheating or misrepresentation as the case may be. This itself disentitles the petitioners to claim the discretionary relief.

10.Considering the conduct as well as the attitude of the petitioners, this court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this criminal original petition is dismissed.

sd/-
12/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

1 THE SUB INSPECTOR OF POLICE
SIVAKASI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-13542[I] dated 12/09/2023)

ORDER
IN

CRL OP(MD) No.15134 of 2023

Date :12/09/2023

SSA/VR/15.09.2023/5P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023