



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 28.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.(MD)No.17187 of 2022

WEB COPY

K.Muthaiyan ... Petitioner/Intervenor/De-facto complainant

vs.

1.Jharson Ruben @ Jharson

2.Chandrakala

3.Prabha

4.Jharsanya ... Respondents 1 to 4/Petitioners 1 to 4/A1 to A4

5.The State of Tamil Nadu,
Rep. by Inspector of Police,
District Crime Branch,
Public Prosecutor,
Kanyakumari District at Nagerkoil.

... 5th Respondent/Respondent/Complainant

PRAYER : This Criminal Original Petition has been filed under Section 439(2) r/w 482 of Cr.P.C., to cancel the anticipatory bail granted in favour of the respondents 1 to 4/A1 to A4 in Crl.M.P.No.4473 of 2022, dated 25.08.2022 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil and commit them to custody.

For Petitioner : Mr.T.Cibi Chakraborty, Advocate

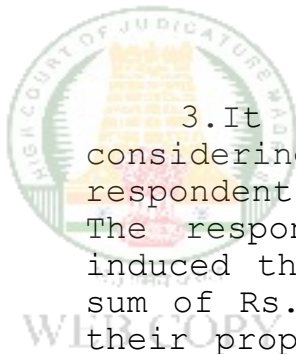
For R1 to R4 : Mr.M.P.Senthil, Advocate

For R5 : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

This Criminal Original Petition has been filed to cancel the anticipatory bail granted in favour of the respondents 1 to 4/A1 to A4 in Crl.M.P.No.4473 of 2022, dated 25.08.2022 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil and commit them to custody.

2.Heard the learned counsel on either side.



3.It is seen from the records that the Court below, considering the gravity of the offence alleged as against the respondents 1 to 4 herein, has granted anticipatory bail to them. The respondents 1 to 4 had conspired together and dishonestly induced the petitioner herein and also by deceiving him received a sum of Rs.2,64,00,000/- on the pretext of advance in order to sell their property and thereafter, they refused to sell their property in favour of the petitioner.

4.The learned counsel for the respondents 1 to 4 would submit that the entire issues are civil in nature. Even according to the petitioner, the respondents 1 to 4 owned property comprised in S.No.605 of 2019 to an extent of 14 cents situated at Viyanoor Village along with buildings and they offered to sell the same, in which, the petitioner agreed to purchase the same for the total consideration of Rs.5,50,00,000/- and also paid a sum of Rs.2,64,00,000/- as advance and entered into an agreement for sale dated 05.02.2022. According to them, it is for the loan transaction and they never intended to sell their property. However, after lodgement of complaint, the petitioner has also filed a suit in O.S.No.236 of 2022 on the file of the Additional District and Sessions Court, Padmanabhapuram, Kanyakumari for specific performance and it is pending for trial. Therefore, the Court below has rightly granted anticipatory bail to the respondents 1 to 4 herein, since the entire issues are civil in nature and the civil suit is also pending for specific performance. That apart whatever the conditions imposed by the Court below is duly complied with by the respondents 1 to 4 herein.

5.In view of the above, this Court finds no reasonable grounds to cancel the anticipatory bail granted to the respondents 1 to 4 in Crl.M.P.No.4473 of 2022, dated 25.08.2022. Hence, this petition stands dismissed.

sd/-

28/03/2023

/ TRUE COPY /

20/04/2023

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

SJI

TO

1.THE PRINCIPAL SESSIONS JUDGE, KANYAKUMARI DISTRICT AT NAGERCOIL

2.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
PUBLIC PROSECUTOR,

KANYAKUMARI DISTRICT AT NAGERKOIL.

<https://www.mhckan.org/>



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

+1. CC to M/S.CIBI CHAKRABORTHY T Advocate SR.No.18316(f)

+1 cc to M/S.M.P.SENTHIL, Advocate SR-18065 (F)

ORDER

IN

CRL OP (MD) No.17187 of 2022

Date :28/03/2023

RK/CG/SAR-2 (20/04/2023) 3P/6C