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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.19330 of 2022

1. Palanisamy

2. Kanagavel Rajan

... Petitioners/Accused 1&2

Vs

The State rep.by,
The Inspector of Police,
Vanniyampatti Vilakku Police Station,
Virudhunagar District.
(Crime No.168/2022).

... Respondent/Complainant

For Petitioners : M/s.Lenin Kumar T, Advocate

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

For Intervenor : Mr.C.Susi Kumar, Advocate

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

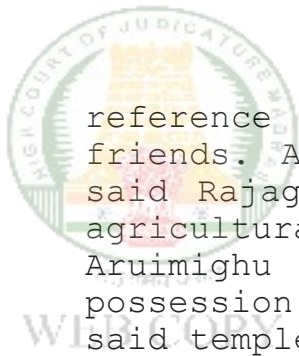
PRAYER :-

For Anticipatory Bail in Cr No.168/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420, 467, 468, 294(b), 506(ii) r/w 34 of I.P.C, in Crime No.168 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant is that on 14.10.2022, one Murugan had lodged a complaint before the learned Judicial Magistrate, based on his



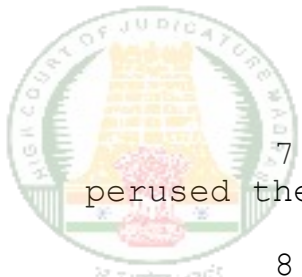
reference to the Police stating that he and one Rajaguru & his friends. At relevant point of time, the first petitioner and the said Rajaguru approached the complainant and demonstrated that an agricultural land measuring an extent of 8.44 acres belonging to Aruimighu Vaithiyanatha Swamy Temple, Srivilliputhur is under the possession of the first petitioner. The Executive officer of the said temple leased out the property in favour of the 2nd petitioner. By saying so, the 1st petitioner made an offer to make over the said land to the complainant for a sum of Rs.12,25,000/-. The complainant accepted the offer and paid a sum of Rs.6,00,000/- to the 1st petitioner through bank transaction on 30.07.2022 and on 01.08.2022, the complainant paid a sum of Rs.8,50,000/- to the 1st petitioner by way of cash. Having received the sum, the 2nd petitioner executed a consent deed in favour of the complainant. On 04.08.2022, when the complainant went to the Registrar Office concerned to pay Theervai and other tax to the Temple, he was replied that the lands stand in the name of one Velayutharaja and Subbulakshmi. Thus, the petitioners without having any right over the property, received a sum of Rs. 14,50,000/- from the complainant and cheated him. When the complainant requested the petitioners to repay the amount, they threatened the complainant with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners innocent and a case of financial transaction has been falsely been projected as a case of forgery and cheating. The fact remains that the second petitioner had borrowed an amount of Rs.6 lakhs from the defacto complainant and handed over the right of cultivating tenancy right to the de facto complainant and the first petitioner had paid the interest regularly. Subsequently there was a dispute between the petitioners and the de facto complainant and he had, without making any payment, had shown as if further amount of Rs.8 lakhs was paid in cash and petitioners have agreed to allow him to cultivate the tenant and later, refused. Hence, prays to release the petitioners on anticipatory bail.

4.The learned counsel for the intervener would vehemently object to release the petitioners on anticipatory bail.

5.The learned Government Advocate (Crl.Side) submitted that in this case, the case has been registered on the reference given by the learned Judicial Magistrate under Section 156 of Cr.P.C, the accused persons have cheated the defacto complainant. Hence, prays to dismiss the petition.

6.At this juncture, the learned counsel for the petitioners submitted that to show their bonafides, they are ready and willing to deposit the original title deed of a property, which would fetch more than Rs.9 lakhs, belonging to the first petitioner, to the credit of the crime number. Hence, prays to release the petitioners on anticipatory bail.



7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. Taking into consideration the facts and circumstances of the case and considering the money dispute between the parties and also considering the readiness and willingness of the petitioners to deposit title deed to the credit of the Crime Number, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, this Criminal Original Petition is allowed and the petitioners shall deposit the original title deeds of immovable property belonging to the first petitioner (Doc.No.1233 of 2022, dated 03.03.2022), on the file of Sub Registrar, Rajapalayam, without prejudice to their rights and contentions, before the trial Court. However, it is made clear that in view of the deposit being made by the petitioners, it would not amount to admission of guilt by them.

10. On such deposit being made, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Srivilliputhur**, 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 learned Magistrate may obtain a copy of their Aadhar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent Police daily at 10:30 a.m., until further orders;

(c) the petitioners shall not tamper with the 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]**; and;



(f)if the accused/ petitioners thereafter absconds. sh
FIR can be registered under Section 229-A IPC.

sd/-
09/02/2023

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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 NO.II, SRIVILLIPUTHUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
VANNIYAMPATTI VILAKKU POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

COPY TO

THE SUB REGISTRAR,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-2126[I] dated 10/02/2023)

ORDER
IN
CRL OP(MD) No.19330 of 2022
Date :09/02/2023

RK/VR/SAR-4 (16/02/2023) 4P/7C