



CRL OP(MD)No.18028 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10.10.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.18028 of 2023

1.Thirupathi

2.Nallathangal

... Petitioners/1st & 2nd Accused

Vs

State Rep.by
The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
(Crime No.188 of 2023)

... Respondent/Complainant

For Petitioners : Mr.S.Poornachandran,Advocate

For Respondent : Mr.R.Suresh Kumar,
Government Advocate(Crl.side)

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

PRAYER :-

For Anticipatory Bail in Crime No.188 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-



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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 294(b), 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act in Crime No.188 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant have three children. In order to purchase the land, the complainant and her family members entered into an oral sale agreement with the first petitioner to purchase the property situated at S.No.52/5A1A1 Allampatti Village, Virudhunagar District. Pursuant to the same, the defacto complainant gave a sum of Rs.12,45,000/- on various dates to the petitioners. However, the petitioners failed to register the property. Hence the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that the petitioners without disclosing the fact that the property was mortgaged, entered into sale agreement with the defacto complainant and received a sum of Rs.12,45,000/- on various dates. That apart, the first petitioner

herein is a history sheet rowdy and history sheet record is maintaining in his name in

<https://www.mhc.tn.gov.in/judis>



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H.S.No.45 of 2022. The second petitioner is the wife of the first petitioner. Therefore, he opposed to grant anticipatory bail to the petitioners.

5.Considering the facts and circumstances of the case and also considering the fact that the first petitioner is a habitual offender, this Court is not inclined to grant anticipatory bail to the first petitioner. Accordingly, this criminal original petition is dismissed insofar as the first petitioner is concerned.

6.Considering the nature of allegations levelled as against the second petitioner, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions:

7.Accordingly, this criminal original petition is partly allowed and the 2nd petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.I, Virudhunagar, on condition that the 2nd 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 2nd petitioner and the sureties shall affix their photographs and Left



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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 2nd petitioner shall report before the trial Court on summons.

[c] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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/-
10/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS



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TO
WEB COPY

- 1 THE JUDICIAL MAGISTRATE NO.I
VIRUDHUNAGAR.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
VIRUDHUNAGAR WEST POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.POORNACHANDRAN, Advocate (SR-15005[I] dated 11/10/2023)

ORDER
IN
CRL OP(MD) No.18028 of 2023
Date :10/10/2023

PKP/JGB/SAR- /17.10.2023/ 5P/6C

Madurai Bench of Madras High Court is issuing certified
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