



CRL OP(MD). No.18132 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18132 of 2023

Thavamani

... Petitioner/ Accused No.2

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Theni District.
(Crime No.31 of 2023).

... Respondent/ Complainant

For Petitioner : M/s.Balaji A,
Advocate.

For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 31 of 2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under sections 417, 419, 420, 465, 468, 471 and 120(b) IPC Crime No.31 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner has executed a forged sale deed, dated 05.05.2022. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that the petitioner is only a purchaser and he has not executed any document. He would further submit that the petitioner is innocent and she has not committed any offence as alleged by the prosecution and her name has been falsely implicated in this case.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that original Chinnpethan died on 06.11.2021. This false document was executed on 05.05.2022 by some other Chinnpethan. It is admitted that the person who affixed the thumb impression and executed a sale in favour of the petitioner is not identified not examined so far.



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5. On perusal of the FIR, it reveals that admittedly the petitioner is only a purchaser of the sale deed, dated 05.05.2022 and he has not executed any document pursuant to the disputed land.

6. Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260, this Court is of the considered view that the alleged offence against the petitioner are not a case of heinous crime. Further, the petitioner is having permanent resident at Andipatti, Theni District and the origin of the crime is forging the documents. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not to be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused have their roots in the community and is not likely to abscond, they can safely be released on his own bond.



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7. In view of the above, I am inclined to grant anticipatory bail to the petitioner.

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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, Theni on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 shall appear before the trial Court on receiving summons as directed by the trial Court.

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

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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].



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[e] If the accused thereafter absconds, a fresh FIR can be registered under
Section 229A IPC.

sd/-
11/10/2023

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

TRP

TO

1.THE JUDICIAL MAGISTRATE, THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

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

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

+1 CC to M/s.A.BALAJI, Advocate (SR-15156[I] dated 13/10/2023)

ORDER
IN

CRL OP(MD) No.18132 of 2023
Date :11/10/2023

RK/VRS (20/10/2023) 5P / 6C

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