



CRL OP(MD). No.18669 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18669 of 2023

Devakumaran

... Petitioner/ Accused No.1

Vs

State Rep.by

The Inspector of Police,

Alwarkuruchi Police Station,

Tenkasi District,

Crime No.192/2023.

... Respondent/Complainant

For Petitioner : M/s.Velmurugan.R, Advocate.

For Respondent : Mr.R.Suresh Kumar, Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.192/2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 419,420,423,465,468 and 471 of IPC in Crime No.192 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and A2 who is a broker has executed a forged sale agreement deed in respect of 155 acres of punja land at Edaikkal Adaichani, Thuppuakudi Village by fabricating the signature of A.S.Maniyam, the father of the defacto complainant and that A2 has signed as



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witness, hence the case.

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3.The learned counsel appearing for the petitioner would submit that A1 had entered into sale agreement with the father of the defacto complainant on 21.11.2022 and subsequently the father of the defacto complainant failed to execute the sale deed for which the petitioner has filed a suit for specific performance and the same was dismissed and he has preferred an appeal and the same is pending and in the meantime the father of the defacto complainant died, since no steps have been taken the suit was dismissed for default. The petitioner has filed petition for restoration and the same was allowed by this Court. He would further submit that the petitioner is innocent and a false case has been foisted against him he seeks anticipatory to the petitioner.

4.The learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner and A2 who is a broker has executed a forged sale agreement deed in respect of 155 acres of punja land at Edaikkal Adaichani, Thuppuakudi Village by fabricating the signature of A.S.Maniyam, hence he objected to grant anticipatory bail to the petitioner.

5. It is seen that there exists civil dispute between the parties.

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



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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 and taking into consideration the origine of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residents at Tenkasi District. Hence 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 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 has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7.In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. 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, Ambasamudram on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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



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on further condition that :

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[a] the petitioner shall affix his photograph and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank Pass Book to ensure his identity.

[b] the petitioner shall report before the trial Court on receipt of summons

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

[d] the 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 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].

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

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



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TO

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1 THE JUDICIAL MAGISTRATE, AMBASAMUDRAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE, ALWARKURUCHI POLICE STATION,
TENKASI DISTRICT.

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

+1 CC to M/s.R.VELMURUGAN, Advocate (SR-15363[I] dated 18/10/2023)

ORDER

IN

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Date :18/10/2023

RS/JGB/SAR-(25.10.2023) 5P 6C

Madurai Bench of Madras High Court is issuing
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