



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Eighth day of February Two Thousand and Twenty Three

PRESENT

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

CRL.O.P (MD) No.21308 of 2022

1.P.J.Arputharaj
2.Mariaglory

...Petitioner/Accused 1 & 2

-vs-

1.The State represented by
The Inspector of Police,
DCB Police Station,
Virudhunagar District.
(in Cr.No.32 of 2022)

...Respondent/Complainant

2.Mahalingam

...Petitioner/Intervener
in CrI.M.P.(MD) No.15327 of 2022

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest by the respondent Police with respect to Cr.No.32 of 2022.

For Petitioners	: Mr.N.Karthik Kanna
For Respondent	: Mr.A.Albert James Government Advocate (CrI.side)
For Intervenor	: Mr.C.Suresh Kannan in CrI.M.P.(MD) No.15327 of 2022

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 406, 420, 465, 294(b) and 506(i) of IPC in Crime No.32 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Mahalingam, is that the accused had induced the de-facto complainant stating that the first petitioner would sell his property and they had received an amount of Rs.20,00,000/- from him and later, it was found that the property does not belong to him. Hence, the complaint.

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3.The learned Counsel for the petitioners would submit that the petitioners are innocence and a false complaint has been given. He would also submit that a case of financial transaction has been falsely projected, as a case of cheating. He would also submit that the de-facto complainant, in fact, handed over money to the first petitioner intending to purchase the family property and the first petitioner was only made to arrange for convincing the other co-owners of the property and believing the same, he had disbursed the amount to other co-owners of the property. Since the de-facto complainant had negotiated with individual co-owners to pay different amounts, there is a dispute and thereby, the other owners of the property have refused to execute the sale deed.

4.He would also submit that the de-facto complainant had earlier harassed the petitioners and the first petitioner had also filed a suit before the lower Court seeking protection from the harassment of the de-facto complainant. He would also submit that the petitioners are senior citizens and the de-facto complainant is now attempting to recover the money by police action. He would submit that without prejudice their rights and contentions, the petitioners are willing to jointly deposit a title deed of immovable property either belonging to themselves or their relatives or their friends worth of Rs.10,00,000/- to the credit of crime number. The learned Counsel for the petitioners also submit that the second petitioner is now taking treatment for neuro problem.

5.The learned Government Advocate (crl.side) would submit that the petitioners have induced the de-facto complainant, as if they are the owners of the property and had received an amount of Rs.20,00,000/- and thereafter, they have cheated the de-facto complainant. He would also submit that the property belongs to some other person. He would oppose for grant of anticipatory bail to the petitioners.

6.The learned Counsel for the intervenor would submit that the accused have induced the de-facto complainant stating that the first petitioner would sell his property and they had received an amount of Rs.20,00,00/- from him and later, it was found that the property does not belong to him. He would oppose for grant of anticipatory bail to the petitioners.

7.Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Sivagangai, on condition that the petitioners shall execute bond for a sum of



Rs.10,000/- (Rupees Ten Thousand only) each with two sureties 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:

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[a] the petitioners and the sureties shall affix their photographs and Left 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 petitioners shall deposit original a title deed of immovable property worth of Rs.10 lakhs either belonging to themselves or their friends or relatives.

[c] the first petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders. The second petitioner shall report before the respondent police, as and when required, on issuance of summons.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

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

sd/-
08/02/2023

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/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR

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TO

1.THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3.THE INSPECTOR OF POLICE,
DCB POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1. CC to M/S.SURESH KANNAN C Advocate SR.No.2042(I)

ORDER

IN

CRL OP(MD) No.21308 of 2022

Date :08/02/2023

NA/SBN/SAR-2/14.02.2023/4P/6C