



CRL OP(MD)No.18860 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14.12.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.18860 of 2023

1.S.Raja

2.Valli Mayil

... Petitioners/ Accused Rank Nos.1 to 2

Vs

The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.17 of 2023)

... Respondent/Complainant

R.Bindiya

... Intervene Petitioner/Proposed Respondent/
Defacto Complainant
in CRL MP(MD)No.15519 of 2023

For Petitioners : Mr.R.L.Dhilipan Pandian, Advocate

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor.

For Intervenor : Mr.R.Rajesh Kumar, Advocate

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



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PRAYER :-

For Anticipatory Bail in Crime No.17 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 506(i) & 120B IPC in Crime No.17 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant's husband worked in Arab countries and earned some money which was invested by him into the companies, which are being operated in Gujarat through one of his friends company and their sister concerns. When thus being so, the defacto complainant had got acquaintance with the present petitioners and they had been engaged with the work of purchasing land for the defacto complainant to make use of the funds which are being sent from Gujarat. However, the petitioners had cheated the defacto complainant and swindled the money which was sent for purchasing land and got some valueless land which was over valued by the petitioners and thereby, caused loss to the defacto complainant. 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. He would further submit that the petitioners are agent of the



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defacto complainant and purchased land. As per the agreement, they purchased the land for cultivation purpose. Since there is some misunderstanding, the defacto complainant preferred the present false case. Hence, he seeks anticipatory bail.

4.The learned counsel appearing for the intervenor would submit that the petitioners without knowledge of the defacto complainant, illegally taken the sand from the lands and caused huge loss to the defacto complainant and hence, he objected to grant anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl.side) appearing for the respondent police filed a status report.

6.On perusal of status report, it is noticed that there is a civil dispute between the parties.

7.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 Kamlendra 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 origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are having permanent residence at Virudhunagar District. Hence the principles stated in *Hussainara Khatoon & Ors vs. Home*



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Secretary, State Of Bihar reported in *AIR 1979 SC 1360* is taken into consideration.

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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.

8.In view of the above, this Court is inclined to grant anticipatory bail to the petitioners. 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, Virudhunagar on condition that the petitioners shall execute a **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 on further condition that :

[a] the petitioners shall affix his photograph 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.



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[b] the petitioners shall report before the trial Court on summons.

[c] the petitioners shall not tamper with 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].

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

sd/-
14/12/2023

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

TO

1 THE JUDICIAL MAGISTRATE NO.II
VIRUDHUNAGAR.



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

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

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

+1. CC to M/S.DHILIPAN PANDIAN R.L Advocate SR.No.17863 DATED
15/12/2023

ORDER
IN

CRL OP(MD) No.18860 of 2023

Date :14/12/2023

SS/JGB/SAR- /02/01/2024/6P/6C

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