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

Date : 05/01/2023

PRESENT

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

CRL OP(MD) . No.21807 of 2022

1. Perumal
2. Kandavadivu

... Petitioners No.1 & 2/
Accused No.3 & 4

Vs

State rep.by
The Inspector of Police,
Central Crime Branch Police Station,
Madurai City.
(Crime No.16 of 2022).

... Respondent/Complainant

S.K.P.Karuppiah

... Petitioner/Intervener
(in Crl.M.P. (MD) No.15635/2022)

For Petitioners : M/s.Gandhi.R, Advocate

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

For Intervenor : Mr.K.Rajeshwaran, Advocate

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

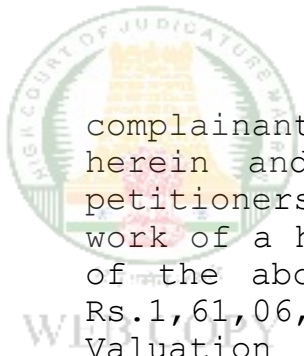
PRAYER :-

For Anticipatory Bail in Crime No.16/2022 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 and 506(i) of IPC, in Crime No.16 of 2022, seek anticipatory
bail.

2.The case of the prosecution is that the defacto complainant
has been practicing as a Cardiologist at Apollo Hospital, Madurai.
The second petitioner herein is the own sister of the defacto



complainant. The first accused is the son-in-law of the petitioners herein and he completed B.E., (Arc). On the recommendation of petitioners, the defacto complainant had entrusted the construction work of a hospital cum house with the first accused. On entrustment of the above said work, the first accused received an amount of Rs.1,61,06,388/-. After completion of work, the Auditor had given a Valuation Certificate that the accused had spent only Rs.1,17,94,177/-, thereby, the accused had cheated the defacto complainant to the tune of Rs.53,12,211/-. When the same was questioned by the defacto complainant, the accused had abused and threatened the defacto complainant. Hence, the complaint.

3. The learned counsel for the petitioners would submit that this is the second petition for anticipatory bail. The case of civil in nature has been exaggerated and converted into a criminal complaint. The defacto complainant has attempted to recover the amount by Police intervention. A reading of the FIR go to show that there was a dispute only in between the defacto complainant and the first accused. The petitioners are arrayed as A3, A4 in this case. In this case, major part of investigation has already been completed. Hence, they may be granted anticipatory bail.

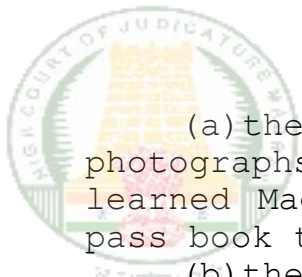
4. The learned Government Advocate (Crl.Side) submitted that in this case, the first accused is the son-in-law of the petitioner and he had entered into an agreement with the defacto complainant for constructing a house cum hospital and had given a sum of Rs.1,61,06,388/-, but the first accused had spent only Rs.1,17,94,177/- and cheated the defacto complainant to the tune of Rs.53,12,211/-. Hence, prays to dismiss the petition.

5. The learned counsel for the intervener submitted that the defacto complainant had entrusted the accused persons to construct a hospital cum house and they cheated to the tune of Rs.53,12,211/-. When the same was questioned by the defacto complainant, he was criminally threatened by the accused persons. Hence, prays to dismiss the petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Taking into consideration the facts and circumstances of the case and considering the fact that major part of investigation has already been completed and the overt act attributed against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.I, Madurai**, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or bank pass book to ensure their identity;

(b) the first petitioner shall report before the respondent Police daily at 10:30 a.m., for a period of two weeks and the second petitioner shall report before the respondent Police daily at 10:30 a.m., for a period of one week, thereafter, they shall report before the respondent Police on every Saturday at 10:30 a.m., until further orders;

(c) the petitioners shall not tamper with the 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]**; and;

(f) if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

05/01/2023

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/01/2023

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

PNM

TO

1. THE JUDICIAL MAGISTRATE NO.I, MADURAI.
2. -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, MADURAI CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.21807 of 2022

Date : 05/01/2023