



Crl.O.P(MD)No.19407 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

DATED : 26.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P(MD)No.19407 of 2023

Rajamanickam,

... Petitioner/ Accused No.2

Vs.

State represented by,
The Inspector of Police,
District Crime Branch,
Madurai,
Madurai District.
(In Crime No.25 of 2023)

... Respondent/Complainant

For Petitioner : Mr.R.KARUNANIDHI, Advocate
for Mr.T.GOPALA KRISHNAN, Advocate

For Respondent : Mr.R.SIVAKUMAR
Government Advocate (Criminal Side)

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

PRAYER :-For Anticipatory Bail in Crime No.25 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :

The petitioner/accused No.2, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 406, 420 and 506

(i) of 'The Indian Penal Code (45 of 1860)' (hereinafter 'IPC' for the sake of brevity) in



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Crime No.25 of 2023, filed this petition under Section 438 of Code of The Code of Criminal Procedure, 1973 (2 of 1974), seeking an order of pre-arrest bail.

2.The respondent Police registered a case against the petitioner and one Ganesh Kumar. The petitioner herein is arrayed as Accused No.2 and the said Ganesh Kumar is arrayed as Accused No.1.

3.The case of the prosecution is that the defacto complainant, namely one Kavitha, wife of Senthamaraikannan, is engaged in real estate business; that the petitioner and Accused No.1 have entered into a sale agreement with one Karuppaiah for the property situated in Survey Nos.11/8, 11/9, 11/10, 11/11 and 24/4 respectively to an extent of 1 acre 25 cents situated at Velliyankundram Village, Appanthirupathi, Madurai East Taluk, Madurai; that by using the sweet coated words, on 09.06.2020, the petitioner and Accused No.1 entered into sale agreement with the defacto complainant and received a sum of Rs.10,00,000/- only from the defacto complainant to register the sale deed within the period of three months or otherwise return the money with interest; that the defacto complainant asked the petitioner and Accused No.1 about the sale deed, but the petitioner and Accused No.1 did not respond to the defacto complainant's phone calls and requests; that the defacto complainant verified about the above said land property, Accused No.1 registered the above said land property in favour of his name and while the defacto



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complainant questioned about the same, the accused persons abused the defacto complainant by using filthy language and threatened with dire consequences; that the defacto complainant filed a private complaint before the learned Judicial Magistrate No.I, Madurai; that based on the direction issued by the learned Judicial Magistrate No.I, Madurai, FIR has been registered before the respondent Police.

4.Learned counsel appearing for the petitioner submitted that the petitioner herein has been falsely implicated in this case; that the petitioner did not commit any offence as alleged by the prosecution; that the entire transaction happened between defacto complainant and Accused No.1; that the petitioner gave a complaint against the defacto complainant before Anna Nagar Police Station and the defacto complainant was called for enquiry; that in the meantime, the petitioner gave the entire amount by cash to the defacto complainant with two instalments before 25.01.2023; that the petitioner gave a complaint against the defacto complainant on 19.04.2023 before K.Pudur Police Station and the same was acknowledged in CSR No.245 of 2023 and that now, the defacto complainant with a view to get unlawful enrichment has falsely foisted a complaint implicating the petitioner also. Learned counsel further submitted that the entire transaction between the petitioner and the defacto complainant is civil in nature, hence custodial interrogation of the petitioner may not be necessary in the facts and circumstances of the case on hand; that the



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respondent Police is attempting to arrest the petitioner. Hence, the petitioner filed this Criminal Original Petition. Accordingly, he prayed to allow the petition.

5.Per contra, learned Government Advocate (Criminal Side) appearing for the respondent submitted that the petitioner and Accused No.1 received a sum of Rs.10,00,000/- from the defacto complainant and executed a sale agreement dated 09.06.2020 and on the date of sale deed, Accused No.1 was not a owner of the property. Thereafter, Accused No.1 had got a sale deed from the original owners and sold the same to the third parties. Thereafter, the petitioner herein issued a cheque for a sum of Rs.15,00,000/-, dated 27.01.2022 in favour of the defacto complainant, even then the defacto complainant is not able to encash the same. Hence, the act of the petitioner and Accused No.1 attracts the provisions under Sections 294(b), 406, 420 and 506(i) of IPC. Further, the learned Government Advocate (Criminal Side) objected for granting pre-arrest bail order.

6.This Court has considered both side submissions and perused the records.

7.It is alleged that the defacto complainant entered into a sale agreement dated 09.06.2020 with the petitioner and Accused No.1 and gave a sum of Rs.10,00,000/- as an advance to the petitioner and Accused No.1. Hence, the dispute between the defacto complainant and the petitioner arose out of the alleged sale agreement dated 09.06.2020. It appears that the defacto complainant did not file any civil suit before



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the competent civil Court against the petitioner and Accused No.1. Whether the petitioner and Accused No.1 cheated the defacto complainant or not is a question that can be decided only after completion of the investigation and trial. This Court is of the view that the dispute between the defacto complainant and the petitioner is civil in nature. The petitioner has permanent address. Hence, there is no possibility for absconding the petitioner.

8.Considering the nature of the dispute, this Court is of the considered view that the custodial interrogation of the petitioner may not be necessary. Hence, this Court is inclined to grant an order of pre-arrest bail in favour of the petitioner, however subject to the following conditions:

(i) Pre-arrest bail is granted to the petitioner.

(ii) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the Judicial Magistrate No.I, Madurai, within 15 days from today, on his executing a bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties for a like sum each to the satisfaction of the Judicial Magistrate No.I, Madurai.

(iii) The petitioner shall appear and sign before the respondent police daily at 10 a.m. from 10.11.2023 to 30.11.2023.

(iv) The sureties shall affix their photographs and left thumb impression in the



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Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proof to ensure their identity.

(v) The petitioner shall not tamper with the evidence or witness either during investigation or trial.

(vi) The petitioner shall appear and co-operate with the Investigating Agency as and when required for investigation.

(vii) If the petitioner absconds, a fresh FIR shall be registered under Section 229A of IPC.

(viii) On breach of any of the aforementioned conditions, the learned concerned Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

sd/-
26/10/2023

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/11/2023

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

PS
TO
1 THE JUDICIAL MAGISTRATE NO.I,
MADURAI MADURAI DISTRICT.

<https://www.hmc.tn.gov.in/judis>



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2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

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

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

+1 CC to M/s.T.GOPALAKRISHNAN, Advocate (SR-15656[I] dated 30/10/2023)

ORDER
IN
CRL OP(MD) No.19407 of 2023
Date :26/10/2023

SA/VRS/SAR. /03.11.2023/7P/6C

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