



CRL OP(MD)No.19519 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02.11.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.19519 of 2023

Ganesan

... Petitioner/ Accused No.2

Vs

State rep.by
The Inspector of Police,
Subramaniapuram Police Station,
Madurai City.
In Cr.No.481 of 2023

... Respondent/Complainant

For Petitioner : Mr.R.Maheswaran
for M/S.C.Susikumar, Advocate

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

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

PRAYER :-

For Anticipatory Bail in Crime No.481 of 2023 on the file of the Respondent Police.



CRL OP(MD)No.19519 of 2023

WEB COPY

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 294(b) and 506(i) IPC in Crime No.481 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A1 and the petitioner, who is the land broker, approached the defacto complainant and informed that A1 is going to purchase 50 cents of land and if the defacto complainant pay some amount, he will sell the property to him. Therefore, the defacto complainant agreed to pay a sum of Rs.50,00,000/-. Thereafter, A1 and the defacto complainant entered into agreement on 01.03.2023 and the defacto complainant paid a sum of Rs.20,00,000/- as advance through bank transaction. Thereafter, the petitioner herein informed the defacto complainant that the property in question is already mortgaged in the bank and instructed to get back the money from A1. On enquiry, the defacto complainant came to know that already the property was mortgaged and in order to cheat the defacto complainant, A1 entered into sale agreement. When the defacto complainant questioned about the same, the accused threatened him. Hence, the case.



CRL OP(MD)No.19519 of 2023

WEB COPY

3.The learned counsel appearing for the petitioners would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner herein is only a land broker and he has not received any amount from the defacto complainant. Hence, he seeks anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the investigation in this case is not yet completed.

5.On perusal of records, it is noticed that the petitioner herein is only a land broker and he has not received any amount from the defacto complainant. That apart, the petitioner herein informed about the mortgage to the defacto complainant.

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 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 petitioner is not a case of heinous crime.



CRL OP(MD)No.19519 of 2023

WEB COPY

Further the petitioner is having permanent residence at Madurai 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 No.IV, Madurai on condition that the petitioner 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 :



CRL OP(MD)No.19519 of 2023

WEB COPY [a] the petitioner 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 his identity.

[b] the petitioner shall report before the trial Court on 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].



CRL OP(MD)No.19519 of 2023

[f] If the accused thereafter absconds, a fresh FIR can be registered under

WEB COPY

Section 229A IPC.

sd/-
02/11/2023

/ TRUE COPY /

/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gns
TO

- 1.The Judicial Magistrate No.IV,
Madurai.
 2. Do through the Cheif Judicial Magistrate,
Madurai.
 - 3.The Inspector of Police,
Subramaniapuram Police Station,
Madurai City.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1. CC to M/S.C.SUSI KUMAR Advocate SR.No.15880



WEB COPY



CRL OP(MD)No.19519 of 2023

ORDER

IN

CRL OP(MD) No.19519 of 2023

Date :02/11/2023

SSA/DD/(22.11.2023)/ 7P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.