



CRL OP(MD). No.19600 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19600 of 2023

Ganesh Kumar,

... Petitioner/ Accused

Vs

The Inspector of Police,
District Crime Branch Police Station,
Madurai.
Cr.No.25/2023.

... Respondent/ Complainant

S.Kavitha

...Intervening Petitioner/Intervenor
in CRL MP(MD)No.16352 of 2023

For Petitioner : M/s.Naveen Kumar.G,
Advocate.

For Respondent : Mr.R.Sureshkumaar,
Government Advocate (Crl.Side)

For Intervenor : Mr. S.Ananthakumar, Advocate

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



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

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 294(b), 406, 420 and 506(i) IPC in Crime No.25 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The learned counsel appearing for the petitioner submitted that admittedly the petitioner registered a sale agreement with the defacto complainant and received a sum of Rs.10,00,000/-. Since the sale agreement not fulfilled returned the sale advance amount of Rs.10,00,000/- with interest of Rs.5,00,000/- totally Rs.15,00,000/- through bearing Cheque No.056772, dated 27.01.2022 was issued by the petitioner for an amount of Rs.15,00,000/- for the sale agreement has been returned to the defacto complainant, but, the defacto complainant failed to put the cheque given by the petitioner. Under these circumstances it is only breach of contract on the part of the defacto complainant and seeks anticipatory bail.



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3. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that issue between the parties is breach of contract executed between the petitioner and the defacto complainant and the counsel for the defacto complainant conceded the cheque was given to him for Rs.15,00,000/-, but, he failed to put it for collection.

4. Admittedly, the amount was refunded to the defacto complainant through cheque but the defacto complainant failed to put it for collection. It is a case of civil in nature with regard to the execution of sale deed.

5. 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 Kamendra 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, this Court is of the considered view that the alleged offence against the petitioner is not a case of heinous crime. Further, the petitioner is having permanent resident at Madurai District and the origin of the crime is civil in nature. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home 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.

6. In view of the above, I am 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. I, Madurai, on condition that the petitioner shall execute 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 petitioner shall appear before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[c] the petitioner shall not abscond either during investigation or trial.

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[d] 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].

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

sd/-
13/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP

TO

1. THE JUDICIAL MAGISTRATE NO.I, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

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



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

+1 CC to M/s.R.VIGNESH, Advocate (SR-17682[I] dated 13/12/2023)

ORDER
IN
CRL OP(MD) No.19600 of 2023
Date :13/12/2023

RK/VR(26/12/2023) 6P / 6C
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