



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/01/2023

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PRESENT

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

CRL OP(MD). No.22091 of 2022

1.Mallika

2.Jerin

3.Joshua

... Petitioners/Accused Nos.2 to 4

Vs.

The State rep.by
The Inspector of Police,
District Crime Branch,
Dindigul District
In Crime No.34 of 2022

... Respondent/Complainant

For Petitioners : Mr.Jegadish Pandian, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.Side)

For Intervenor : Mr.J.Gunaseelan Muthaiah, Advocate

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

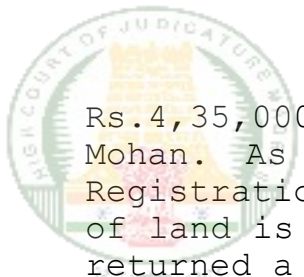
PRAYER :-

For Anticipatory Bail in Crime No. 34 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused 2 to 4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(B) and 420 I.P.C in Crime No.34 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant John Christopher is that he owns the land at Palani Chathirapatti and the said land was mortgaged to one Seenivasan and from the same land, the defacto complainant decided to sell 15 cents of land to one M. Jeyaraj, for that the defacto complainant received a sum of

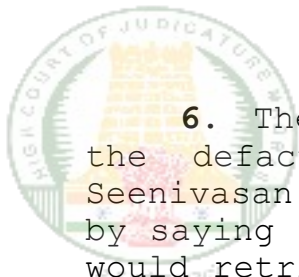


Rs.4,35,000/- (Rupees four lakhs and thirty five thousand only) to Mohan. As per rules and guideline issued by the Department of Registration, the sale deed has not been executed since the extent of land is less than 21 cents. Therefore the defacto complainant had returned a sum of Rs.2,50,000/- (Rupees two lakhs and fifty thousand only). Later, the defacto complainant's relative one Palraj/accused No.1 had approached the defacto complainant and expressed his willingness towards purchase the land in as is where is basis. Thereafter, from 23.04.2022 to various dates the said Palraj has made an advance of sum of Rs.5,45,000/- (Rupees five lakhs and forty five thousand) towards purchase. Subsequently, the said Palraj demanded a sum of Rs.11,00,000/- (Rupees eleven lakhs only) to get back the mortgaged land from the said Seenivasan and the same was accepted by the defacto complainant and he gave a sum of Rs.11,00,000/- (Rupees eleven lakhs only) to all the accused persons on two occasions. After receiving the money, the accused persons did not fulfill their promise. When the same was questioned by the defacto complainant, all the accused persons refused to repay the money and they had cheated the defacto complainant for the tune of Rs.5,55,000/-, the present complaint has been lodged.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and a false complaint has been given against them. He would submit that it is true that the petitioners had some transaction with the defacto complainant in respect of which the defacto complainant has taken vengeance and has demanded huge amount from them and he has given a false complaint as if the petitioners have agreed to retrieve the property, which was mortgaged by the defacto complainant. He would further submit that the fact is that the property was not mortgaged to Seenivasan and the defacto complainant had in fact sold the property to Seenivasan and a false complaint has been given.

4. The learned counsel for the petitioners would also submit that without prejudice to his rights and contentions, to show their *bonafides*, the petitioners are ready to deposit Rs.2,50,000/- (Rupees two lakhs and fifty thousand only) and they are ready to appear before the respondent police and co-operate for investigation. Hence, he prays for grant of anticipatory bail to the petitioners.

5. The learned counsel for the petitioners would submit that the entire family members including the son of the petitioners 1 and 2, who is a practising Advocate has been falsely implicated in this case as A3. Therefore he submits that though the jurisdictional Magistrate is Judicial Magistrate No.II, Dindigul, the petitioners may be permitted to produce sureties before the Judicial Magistrate, Natham.



6. The learned Government Advocate (Crl.Side) submit at the defacto complainant had mortgaged his property with one Seenivasan and the petitioners had induced the defacto complainant by saying that as per the suggestion of the local area people, they would retrieve the property from the said Srinivasan if the defacto complainant gives Rs.11 lakhs and believing their words, the defacto complainant gave Rs.8,50,000/- and Rs.2,50,000/- in two times. Hence, he prays to dismiss this application.

7. Mr.Gunaseelan Muthaiah, learned counsel for the intervenor submitted that the intervenor had mortgaged the property with one Seenivasan. However, as per the directions of the local area people, the accused induced the defacto complainant by stating that if he would give Rs.11 lakhs, they will retrieve the property from the said Seenivasan and believing their words, the defacto complainant has paid Rs.11 lakhs to the accused on 06.10.2022 and they have not settled the amount to Seenivasan and cancelled the mortgage deed till date.

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

9. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. 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, Natham**, 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 shall deposit Rs.2,50,000/- (Rupees two lakhs and fifty thousand only) to the credit of Crime No.34 of 2022 before the learned Judicial Magistrate No.II, Dindigul, and shall produce the proof for the same before the Judicial Magistrate, Natham;

[b] the petitioners and the sureties shall affix their photographs 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.

[c] the petitioners shall report before the respondent Police Station everyday at 10.30 a.m., for a period of two weeks and



thereafter, as and when required for interrogation;

[d] the petitioners shall not tamper with the evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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;

[g] if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

03/01/2023

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

CM
TO

1 THE JUDICIAL MAGISTRATE, NATHAM.

2 THE JUDICIAL MAGISTRATE NO.II, DINDIGUL.

3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
DINDIGUL DISTRICT

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

+1 CC to M/s.JEGAEESH PANDIAN.M, Advocate(SR-210[I] dated 05/01/2023

ORDER

IN

CRL OP(MD) No.22091 of 2022

Date :03/01/2023

PKP/MMS/SAR-3/11.01.2023/4P/7C