



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/03/2023

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). Nos.22379, 22303 and 23138 of 2022

Mukil Prabhakaran

... Petitioner/1st Accused
in Crl.O.P.(MD)No.22379 of 2022

Kandasamy

... Petitioner/Accused No.2
in Crl.O.P.(MD)No.23138 of 2022

Pitchaimuthu

... Petitioner/3rd Accused
in Crl.O.P.(MD)No.22303 of 2022

Vs

State Rep.by
The Inspector of Police,
City Crime Branch,
Madurai Ctiy.
Crime No.48 of 2022.

... Respondent/Complainant
in all petitions

Senthil Kumar

... Petitioner/Defacto Complainant
in CRL MP(MD).16234/2022 in CRL OP(MD).22379/2022
in CRL MP(MD).16237/2022 in CRL OP(MD).22303/2022
in CRL MP(MD).1061/2023 in CRL OP(MD).23138/2022

For Petitioner : M/s.S.Muniyandi, Advocate.
(in Crl OP(MD).22379/2022)

For Petitioner : M/s.A.Subash Advocate.
(in Crl OP(MD).23138/2022)

For Petitioner : Mr.Anandha Padmanabhan, Senior Counsel
(in Crl OP(MD).22303/2022) for Mr.V.Ramalingam, Advocate

For Respondent : Mr.R.M.Anbunithi,
(in all petitions) Additional Public Prosecutor

For Intervenor : Mr.Niranjan S.Kumar, Advocate
(in all petitions)



PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P

COMMON PRAYER :-

For Anticipatory Bail in Crime No.48 of 2022 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 to A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of I.P.C., in Crime No.48 of 2022 on the file of the respondent police, seek anticipatory bail.

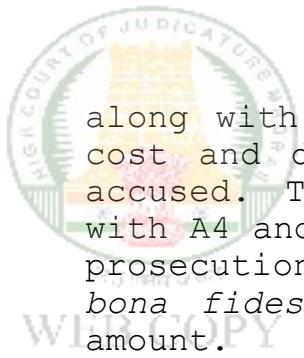
2.The case of the prosecution is that A1 approached the de-facto complainant in the year 2019 and he informed him that his friends are working at National Highways Department and A1 had also frequently approached the de-facto complainant and informed him that Thirupathur to Kottampatti Road was sanctioned by the Government and the same has to be given through tender. Moreover, he informed that the tender was allotted through political party. On such circumstances, he induced the de-facto complainant to deposit a sum of Rs.5,00,000/- as deposit. The said amount has to hand over to the third accused. On such inducement, he handed over money to the petitioners on 04.11.2019. The petitioners received money from the de-facto complainant and thereafter, they did not get any tender in favour of him. The tender was allotted to somebody else on 08.07.2020. On such circumstances, he requested to return the deposit money. Due to Covid-19 Pandemic period, they will not get any other tender from the Government. Hence, the case.

3.Heard. Perused the materials available on record including the First Information Report.

4.It is seen that there are four accused in this case. The petitioners are arrayed as A1 to A3. Even according to the case of the prosecution, they received a sum of Rs.5,00,000/- in order to allot some contract work to the de-facto complainant through A4, who was working as a Chief Engineering of Highways Department.

5.The learned counsel for the de-facto complainant would submit that totally a sum of Rs.2,50,00,000/- paid to all the accused persons in order to get some contract work in the Highways Department. In fact, he further pointed out that the complaint lodged by the first accused to various police persons, in which, he categorically admitted that they received a sum of Rs.2,00,00,000/- in order to get contract work. Therefore, the custodial interrogation of the petitioners is very much required in this case and thereby, he opposed to grant anticipatory bail.

6.The learned Senior Counsel appearing for the second accused submitted that even according to the complainant, the petitioner



along with A1 and A3 have received only a sum of Rs.5,00,000/- as cost and deposited in order to hand over the same to the fourth accused. Thereafter, the de-facto complainant had direct contact with A4 and as such no payment was received by him as alleged by the prosecution. He would further submit that in order to show their *bona fides*, the petitioners are ready and willing to settle the amount.

7.The learned Additional Public Prosecutor would submit that all the accused jointly received a sum of Rs.4,50,000/- and now the fourth accused was suspended and he is facing departmental action also. Therefore, the custodial interrogation of the petitioners is very much required and thereby, he opposed to grant anticipatory bail to the petitioners.

8.It is seen that there are four accused in this case and the petitioners are arrayed as A1 to A3. As per the FIR, they received a sum of Rs.5,00,000/- in order to get some contract work for the de-facto complainant. On perusal of the complaint alleged by the first accused reveals that after introduction of the de-facto complainant to the Chief Engineer, he had direct contact with the Chief Engineer, the fourth accused herein. Even according to the de-facto complainant, he paid a sum of Rs.2,50,00,000/- by cash as paid for getting contract work. Therefore, the transactions are illegal and there is no proof to show that the de-facto complainant had paid a sum of Rs.2,50,00,000/-. Even assuming that he paid a sum of Rs.2,50,00,000/- not to the petitioners herein and directly to the fourth accused, now the fourth accused got suspended and facing departmental action. Therefore, the custodial interrogation of the petitioners is not required in this case.

9.In view of the above facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

10.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their 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 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 Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.



[b] the petitioners shall report before the respondent, daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

[c] the petitioners shall not tamper with 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].

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

sd/-
14/03/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, MADURAI.
 - 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE, CITY CRIME BRANCH, MADURAI CTIY.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.MANOHARAN R, Advocate (SR-4271[I] dated 15/03/2023)
- +1 CC to M/s.SUBASH A, Advocate (SR-4416[I] dated 16/03/2023)

ORDER IN
CRL OP(MD). Nos.22379, 22303 and 23138 of 2022
Date :14/03/2023

RS/CG/SAR-2(29.03.2023) 4P 7C