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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/01/2023

PRESENT

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

CRL OP(MD). No.22799 of 2022

Amirthaselvam

... Petitioner/Accused No.3

Vs.

State rep. by
Sub Inspector of Police,
District Crime Branch,
In Crime No.25 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Jothi Basu, Advocate

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.25 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.3, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(B), 406, 420 I.P.C, in Crime No.25 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant R.Rajeshwari is that the first accused is her cousin and when she was in need of a loan, the first accused had introduced the accused 2 and 3 to her as financiers for availing loan. The accused 2 and 3 while giving loan told her that she has to execute a sale deed in favour of them as security and in the event of repaying the loan amount with interest, the property will be re-conveyed in her name and on believing their words, she had executed a sale deed by obtaining a sum of Rs.13,77,500/-. Thereafter, she had repaid the loan. But the accused had refused to re-convey the property and



cheated her and when she had questioned the same, the accused threatened and intimidated her.

3. The learned counsel for the petitioner submitted that the petitioner had purchased the property for valid consideration of Rs.13,77,500/- and only after the entire amount was paid, the sale deed was executed and since the value of the property has gone up, a false complaint has been lodged. He would also submit that without prejudice to his right to show his *bonafide*, the petitioner is ready to file an affidavit before the Judicial Magistrate No.II, Virudhunagar at the time of executing the bond by stating that the petitioner will not encumber the property till the disposal of the case. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that under the guise of giving loan, the defacto complainant was forced to execute a sale deed in favour of the accused as a security and thereafter, the accused had cheated the defacto complainant. Hence, prays to dismiss the petition.

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

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

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Virudhunagar**, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) 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 petitioner shall file an affidavit of undertaking before the learned Judicial Magistrate that he will not encumber the property;

[b] the petitioner 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 petitioner shall report before the respondent Police Station everyday at 10.30 a.m. until further orders;



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

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

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[f] 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]**; and;

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

sd/-

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

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TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.JOTHI BASU M, Advocate (SR-38[I] dated 03/01/2023)

ORDER

IN

CRL OP(MD) No.22799 of 2022

Date :02/01/2023

PKP/MMS/SAR-2/09.01.2023/3P/6C