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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/01/2023

PRESENT

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

CRL OP (MD) . No.22983 of 2022

Gomathi Sankar

... Petitioner/Sole Accused

Vs.

The State rep.by
The Inspector of Police,
Mukkudal Police Station,
Tirunelveli District
In Crime No.135 of 2022

... Respondent/Complainant

For Petitioner	:	Mr.S.Sathya Chidhambaram, Advocate.
For Respondent	:	Mr.P.Kottai Chamy Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.135 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 417, 420, 506(ii) I.P.C and Section 4 of TNPHW Act in Crime No.135 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Thanushkumar is that the accused had agreed to sell his house property for a sum of Rs.30 lakhs and taken advance of Rs.1 lakh and on 14.09.2021 after receiving the balance amount of Rs.29 lakhs, he executed a sale deed in favour of the defacto complainant at the Office of the Sub Registrar, Mukkudal, Tirunelveli District. But the petitioner has not delivered the possession of the house property and he was dragging the issue. On 12.08.2022, the defacto complainant had gone there and he noticed that the accused had inducted 3 persons as tenants and had received Rs.2 lakhs from them and thereby cheated the defacto complainant. When the defacto



complainant had questioned, he had abused with filthy language and threatened with dire consequences.



3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and civil dispute has been given a criminal colour. The defacto complainant has attempted to recover the possession of the house by police action. He would submit that at the time of sales itself, the defacto complainant was very well aware that the tenants occupied the houses and thereafter only he purchased the same on 14.01.2021. The tenants have subsequently refused to vacate from the premises and thereby a false complaint has been given as if the petitioner has cheated him.

4. The learned counsel for the petitioner would also submit that without prejudice to his right and contention, to show his bonafide, the petitioner is ready to deposit Rs.1.50 lakhs before the court.

5. The learned Government Advocate (Crl.Side) submitted that the accused has sold the house property to the defacto complainant to the tune of Rs.30 lakhs and thereafter, the accused has not handed over the property and leased the same to another 3 persons by cheating the defacto complainant. Hence, he prays for dismissal of this application.

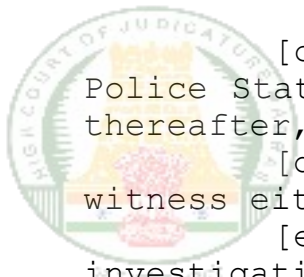
6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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

8. 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, Cheranmahadevi, Tirunelveli District**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of Crime No.135 of 2022 before the Judicial Magistrate, Cheranmahadevi, Tirunelveli District;

[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 r at Police Station everyday at 10.30 a.m., for a period of one and thereafter, on every Saturday at 10.30 a.m., until further c

[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;

[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.

TO

1 THE JUDICIAL MAGISTRATE,
CHERANMAHADEVI, TIRUNELVELI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
MUKKUDAL POLICE STATION, TIRUNELVELI DISTRICT

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

ORDER

IN

CRL OP(MD) No.22983 of 2022

Date :03/01/2023

CM

MK/SSS/SAR IV/09.01.2023/3P/5C