



CRL OP(MD) No.3856 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Sixth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3856 of 2024

1 VENGATACHALAM

2 GIRTHARAN

3 DHARMALINGAM

... PETITIONERS / ACCUSED No.1 TO 3

Vs

THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH
TRICHY DISTRICT
CRIME NO.10/2024.

... RESPONDENT / COMPLAINANT

SWAMINATHAN

... PETITIONER/DEFACTO COMPLAINANT
in CRL MP(MD)No.3253 of 2024
in CRL OP(MD)No.3856 of 2024

For Petitioner : MR.C.IYYAPPARAJ, Advocate for
M/S.MANIKANDAN.V, Advocate

For Respondent : MR.P.KOTTAICHAMY, Govt. Advocate (Crl. Side)

For Intervenor : Mr.KATHIRVELU, Senior counsel for
Mr.K.PRABHU, Advocate



CRL OP(MD) No.3856 of 2024

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

PRAYER:

FOR ANTICIPATORY BAIL IN CRIME NO.10/2024 ON THE FILE OF THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police for the alleged offence under Sections 120(B), 406, 420, 468, 34 of IPC, in Crime No.10 of 2024, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant approached the petitioners to purchase their land situated at Mullipadi Village, Musiri Taluk, Trichy District, to that effect, he paid Rs.10,00,000/- as an advance and sale agreement has been executed with the first petitioner that within three months, remaining amount has to be paid and execute a sale deed by the defacto complainant. On request made by the defacto complainant, the first petitioner executed a registered Power of Attorney deed No.2575 of 2020 on 04.09.2020 in favour of the defacto complainant. Thereafter, the petitioners sold the said property to some other persons, thereby, cheated the defacto complainant. Hence, the complaint.



CRL OP(MD) No.3856 of 2024

WEB COPY

3. The learned counsel appearing for the petitioners would submit that that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. It is true that the first petitioner has entered sale agreement with the defacto complainant for selling his property to an extent of 21 Acres and the defacto complainant paid Rs.43,00,000/- only. The defacto complainant did not pay the balance sale consideration within three months as per the agreement made between him and the first petitioner. Thereby, the first petitioner cancelled the general Power of Attorney deed on 30.11.2021, which was executed in favour of the defacto complainant. Thereafter only, the petitioners sold the properties to various persons. The first petitioner drawn a Demand Draft for a sum of Rs.20,00,000/-, dated 25.03.2024 in favour of the defacto complainant and the same was handed over to the defacto complainant directly. Further he would submit that on instruction, the petitioners are ready to deposit a sum of Rs.23,00,000/- in Crime No.10 of 2024 on the file of the respondent Police before the concerned Court. The trial Court may disburse the said amount to the defacto complainant, after obtaining appropriate affidavit from the defacto complainant that if the petitioners succeed in the trial, liberty may be given to the petitioners for refund of the said amount. Hence, he prays for grant of anticipatory bail.



CRL OP(MD) No.3856 of 2024

WEB COPY

4. The learned senior counsel appearing for the defacto complainant would submit that admittedly the entire sale consideration is Rs.1,09,00,000/-, out of which, Rs.1,00,00,000/- was paid to the petitioners through Bank transaction (Rs.40,00,000/-) and by cash (Rs.60,00,000/-). Thereafter only, the petitioners handed over the original documents to the defacto complainant. Further, the defacto complainant received the Demand Draft for a sum of Rs.20,00,000/- and if the petitioners paid Rs.23,00,000/-, the defacto complainant will not interfere into the disputed property except due process of law.

5. The learned Government Advocate (Crl.Side) would submit that the investigation is pending. Hence, he opposed to grant anticipatory bail to the petitioners.

6. Considering the facts and circumstances of the case and also considering the fact that the petitioners handed over the Demand Draft for a sum of Rs.20,00,000/- to the defacto complainant, this Court is inclined to grant anticipatory bail to the petitioners.



CRL OP(MD) No.3856 of 2024

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7. Accordingly, the petitioners are granted anticipatory bail and they are is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Musiri, Trichy District, 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 and on further condition that:

(a)if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)the petitioners shall deposit a sum of **Rs.23,00,000/- (Rupees Twenty Three Lakhs only) jointly** to the credit of the Crime No.10 of 2024 before the concerned trial Court, without prejudice to their defence before the trial Court, within a period of two weeks from the date of receipt of copy of this order. The trial Court may disburse the said amount to the defacto complainant, after obtaining appropriate affidavit from the defacto complainant that if the petitioners succeed in the trial, the petitioners are entitled for refund of the said amount;



CRL OP(MD) No.3856 of 2024

WEB COPY

(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioners shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks, thereafter, as and when required for interrogation;

(e)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioners shall not abscond either during investigation or trial;

(g)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;



CRL OP(MD) No.3856 of 2024

(h)if the accused thereafter absconds, a fresh FIR can be registered under
Section 229-A IPC.

8. With the above said conditions, this Criminal Original Petition is allowed.
Further, liberty is granted to the defacto complainant to workout his remedy in
respect of the balance amount, if any, in the manner known to law.

sd/-
26/03/2024

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/04/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU

TO

- 1 THE JUDICIAL MAGISTRATE,
MUSIRI, TRICHY DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH
TRICHY DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.V.MANIKANDAN, Advocate (SR-3735[I] dated 26/03/2024)



CRL OP(MD) No.3856 of 2024

+1 CC to M/s.K.PRABHU, Advocate (SR-3920[I] dated 28/03/2024)

ORDER
IN
CRL OP(MD) No.3856 of 2024
Date :26/03/2024

SS/VR/SAR- /16/04/2024/8P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023