



CRL OP(MD). No.12271 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/08/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12271 of 2024

Glittus Gonsalvas

... Petitioner/Sole Accused

Vs

The Sub Inspector of Police,
Aaralvoimozhy Police Station,
Through the Public Prosecutor,
Nagercoil,
Kalyakumari District.
Crime No. 191/2023.

... Respondent/Complainant

For Petitioner : Mr.Sreenivasan M.R., Advocate

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS / 438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.191 of 2023 on the file of the respondent Police.

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). No.12271 of 2024

ORDER : The Court made the following order :-

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The petitioner, apprehending arrest at the hands of the respondent Police, in connection with a case in Crime No.191 of 2023, for the offence punishable under Sections 406, 420 and 506(i) IPC, has filed this petition seeking anticipatory bail.

2. The case of the prosecution is that the petitioner, by creating a forged document, sold a property belonging to Kanyakumari Co-operative Industrial Estate, to the defacto complainant and cheated him to the tune of Rs.15,60,000/-. Hence, the case.

3. In the earlier application this Court by order dated 26.06.2024 has granted interim anticipatory bail to the petitioner with a direction that he should appear before the respondent police and co-operate for the enquiry. But the petitioner has failed to comply with the same, by taking advantage that he was directed to appear before the respondent police as and when required and he has not received any summons from the respondent police. Considering his conduct in not appearing before the respondent police, this Court has dismissed the earlier application on 10.07.2024.



CRL OP(MD). No.12271 of 2024

WEB COPY

4.The learned counsel appearing for the petitioner has filed the present application and pointed out that in the interim order passed in CrI.O.P(MD)No.9374 of 2024, dated 26.06.2024, the petitioner was directed to appear before the respondent as and when required by the respondent police. Admittedly, the respondent police has not issued any summons to the petitioner.

5.The learned counsel appearing for the petitioner has filed a typed set of papers stating that it is only a business transaction, which has been projected as a criminal case by the respondent police. In support of the same, he has also relied on the partnership deed dated 24.08.2017 entered into between the complainant/Shawal Ram and the petitioner herein for doing business of paint and chemical manufacturing. This agreement for sale was made on 25.08.2017 by an unregistered document for selling a property in S.F.Nos.346/3C and 359/3 in Plot No.42 at Aaralvoimozhy Village. The learned Counsel also relied on the orders passed by this Court in CrI.O.P(MD)No.12264 of 2023, dated 07.07.2023 and submits that the case itself was registered only on the directions of this Court. The said application was filed by the defacto complainant seeking a direction to transfer the complaint, which is pending on the file of the Aaralvoimozhy police station in C.S.R.No.251 of 2023 to the second respondent therein. The said application was disposed by this Court with



CRL OP(MD). No.12271 of 2024

WEB COPY

a direction to the third respondent therein to enquire into the matter and consider the documents if any filed by the petitioner therein and dispose of the same afresh within a period of two weeks, from the date of receipt of submission of the documents. Based on that, the present case has been registered as against the petitioner. According to the learned Counsel for the petitioner this is purely a business transaction, which has been projected with criminal color. Initially, the respondent police has not acted upon the complaint, then, the case has been registered only on the directions of this Court.

6.Considering this submission made by the learned Counsel for the petitioner, this Court by earlier order dated 16.08.2024, has directed the petitioner to appear before the respondent police and co-operate for the investigation. This Court has also directed the investigation officer in Crime No.191 of 2023 to file a status report as to the stage of the investigation and the role played by the petitioner in the commission of offence.

7.The learned Government Advocate (CrI.Side) appearing for the respondent Police submits that the defacto complainant's native is Rajasthan and he came to Kanyakumari District for starting a business. Therefore, the defacto complainant was



CRL OP(MD). No.12271 of 2024

WEB COPY

in need of land. Using that situation, the petitioner approached the defacto complainant that he is the owner of the land comprising of 3.7 cents plot and he is also willing to sell the plot for Rs 3,00,000/- and by believing the words of the accused, the complainant handed over two cheques bearing Nos: 601293629020004 and 601294629020004 for the value of Rs.1,00,000/-(each) drawn at Indian Overseas Bank, Meenakshipuram Branch. The accused had presented the above two cheques and encashed the amount. For the balance Rs.1,00,000/- the defacto complainant paid cash on hand on 11.01.2017. After the payment of entire sale consideration, the accused had executed unregistered sale deed in favour of the defacto complainant. Thereafter, the defacto complainant constructed a building worth about Rs.12,60,000/- in the subject land and due to Panchayat's delay to grant permission to run the business, the complainant has enquired in Aralvoimozhy Town Panchayat and came to know that there a tax due of Rs.92,048/- and also the above said 3.7 cent plot belongs to Kanyakumari Co-operative Industrial Estate. Therefore, the defacto complainant has questioned the accused, for which he threatened the complainant with dire consequences.

8.This Court has considered the rival submissions made.



CRL OP(MD). No.12271 of 2024

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9. The only materials collected by the investigation agency is that the petitioner has received a sum of Rs.2,00,000/- by way of a cheque bearing Nos.601293629020004 and 601294629020004. Admittedly, the defacto complainant is said to have purchased the property by way of an unregistered document without verifying the encumbrance. Apart from this transaction, the petitioner had also entered into the partnership with the defacto complainant on the previous day.

10. Since the investigation has not been completed and the case has also been registered on the misunderstanding of the directions issued by this Court in CrI.O.P (MD)No.12264 of 2023, this Court is inclined to grant anticipatory bail to the petitioner.

11. Accordingly, this Criminal Original Petition is ordered and the petitioner is ordered to be released on bail in the event of his arrest or on his appearance within a period of fifteen days from the date of receipt of a copy of this order, before the concerned learned Judicial Magistrate on condition that

(i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Boothapandy, Kanyakumari District.



CRL OP(MD). No.12271 of 2024

WEB COPY

(ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the government in proof of their residence address;

(iii) The petitioner shall appear before the respondent police daily at 10.30 am until further orders for interrogation. He has to co-operate for the investigation.

(iv) The petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses.

(v) On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the anticipatory bail.

vi) The petitioner shall deposit a sum of Rs.1,00,000/- to the credit of Crime No.191 of 2023, pending on the file of the respondent police.

sd/-
27/08/2024

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/08/2024

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

LR

TO

1. THE JUDICIAL MAGISTRATE,
BOOTHAPANDY, KANYAKUMARI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL.



CRL OP(MD). No.12271 of 2024

3. THE SUB INSPECTOR OF POLICE,
AARALVOIMOZHY POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
NAGERCOIL,
KALYAKUMARI DISTRICT.

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

+1 CC to M/s.M.R.SREENIVASAM, Advocate (SR-10517[I] dated 28/08/2024)

ORDER
IN
CRL OP(MD) No.12271 of 2024
Date :27/08/2024

RK/GS (30/08/2024) 8P / 6C

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