



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

Date : 28/04/2023

PRESENT

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

CRL OP(MD). No.8334 of 2023

P.Gnanasekar

... Petitioner / Accused No.4

Vs

State rep by
The Inspector of Police,
Sessions Court Police Station,
Trichy City,
Trichy.
(In Crime No.221 of 2023).

... Respondent / Complainant

For Petitioner : K.Sivabalan, Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

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

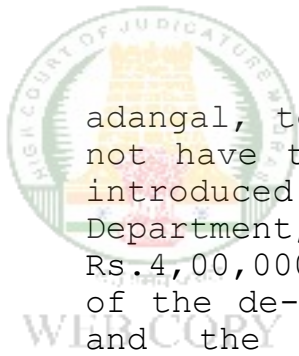
PRAYER :-

For Anticipatory Bail in Crime No.221 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 467, 468, 471, 406 and 420 of I.P.C., in Crime No.221 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant's mother was the owner of the four shops and two houses in S.No.1/1, Subramaniyapuram. Thereafter, the mother of the de-facto complainant gave the said property by a registered Will to the de-facto complainant. Since the same building in the property was in dilapidated condition, the de-facto complainant approached A1, in turn, A1 introduced the petitioner for the construction. After visiting the site, the petitioner said that the old building cannot be repaired and he further insisted to demolish the existing building and construct the new building, for which, he asked for the patta,



adangal, town survey register and FMB. The de-facto complainant did not have the said documents. The first accused and the petitioner introduced A2 and A3 to get those documents from the Revenue Department, for which, the de-facto complainant paid a sum of Rs.4,00,000/-. The accused persons gave documents stands in the name of the de-facto complainant's mother. On 10.12.2022, the petitioner and the de-facto complainant entered into the construction agreement, he was not erected the building as he agreed. So far as, the de-facto complainant had paid a sum of Rs.5,87,500/- during the pendency of construction and later, he came to know that those documents which was given by A2 and A3 was bogus one. Hence, the case.

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

4.It is seen that the petitioner was entrusted to construct building in the said land owned by the de-facto complainant. Further, alleged in the complaint that the petitioner was also entrusted to obtain patta, adangal and other extracts from the revenue, for which, the de-facto complainant paid a sum of Rs.4,00,000/- to the accused. The petitioner along with A1 to A3 had fabricated patta, adangal and other extracts in respect of the said land and handed over to the de-facto complainant. Thereafter, the petitioner herein entered into the construction agreement and received a sum of Rs.5,87,500/- for construction and later, on verification, the de-facto complainant came to understand that the documents produced by them are fabricated one.

5.The learned counsel for the petitioner would submit that sofar the petitioner had put up 75% of the construction to the tune of Rs.14,00,000/-. When the petitioner demanded to pay the remaining balance as agreed in the agreement, the de-facto complainant erected the building in the said property and also lodged a false complaint against him.

6.On perusal of the records revealed that the petitioner had put up a construction and not yet completed. Therefore, the custodial interrogation of the petitioner does not require in this case. Hence, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Trichy, 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



stand dismissed and on further condition that:

[a] 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.

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

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 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].

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

sd/-
28/04/2023

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/05/2023

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

SJI

To

1.The Judicial Magistrate No.II,
Trichy.

2.Do through the Chief Judicial Magistrate,
Trichy District.

3.The Inspector of Police,
Sessions Court Police Station,
Trichy City,
Trichy.



CRL OP(MD).



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.SIVABALAN, Advocate (SR-7090[I] dated 28/04/2023)

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ORDER

IN

CRL OP(MD) No.8334 of 2023

Date :28/04/2023

ED/BUC/SAR-4 (08/05/2023) 4P 6C