



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

Wednesday, the Twenty Eighth day of January Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.14490 of 2014

1 K. AKBAR ALI

2 A. MADAR MOHAMMED RAFIQ

3 A. KADER MYDEEN

... PETITIONER(S) / ACCUSED 1 TO 3

Vs

THE STATE REP. BY THE INSPECTOR OF POLICE

CITY CRIME BRANCH,

TIRUNELVELI DT, CRIME NO.6/2014

... RESPONDENT / COMPLAINANT

MOHAMMED ALILAL

...INTERVENOR

For Petitioner : M/S. N. MOHIDEEN BASHA Advocate

For Respondent : Mr.A.P.Balasurbramani Govt. Advocate (Crl. Side)

For Intervenor : R.ANAND Advocate

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

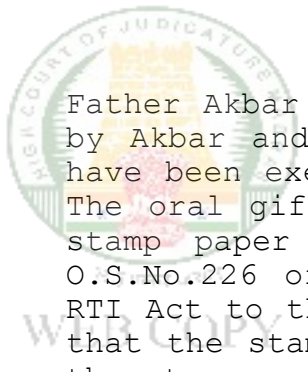
ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police in Crime No.6 of 2014, on the file of the respondent police for offences under Sections 420, 465, 467, 468, 471 and 120(b) of the Indian Penal Code, the petitioners are now before this Court seeking Anticipatory Bail.

2. On 27.01.2015, this Court passed the following order:

"The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 465, 467, 468, 471 and 120(b) IPC in Crime No.6 of 2014 on the file of the respondent police, seek anticipatory bail.

2.De-facto complainant in this case is one Mohamed. According to Mohamed, the property in question was acquired by him through family partition. Mohamed has a brother by name Akbar, who has two sons by name Kadar and Madhar. Mohamed settled his property in favour of his wife Mehabooba. Mehabooba sold the property on 24.09.2013 to one Abdul Azeez. After the sale, Kadar and Madhar have filed a suit for partition in O.S.No.226 of 2013 in which Mohamed, his wife Mehabooba and the Purchaser Abdul Azeez have been made as defendants. They also impleaded their



Father Akbar as one of the defendants. O.S.No.226 of 2013 has been filed by Akbar and Madhar based on an oral gift dated 14.09.2006 purported to have been executed by their father Akbar in respect of the said property. The oral gift, titled as Yedhastu has been written in Rs.10 Non-judicial stamp paper and the same has been filed as one of the documents in O.S.No.226 of 2013 by the plaintiff. Mohamed made an application under RTI Act to the Revenue Authorities and has obtained a reply to the effect that the stamp paper in which Yedhastu has been prepared was not sold to the stamp vendor by name Aathi Vinayagam. Therefore, it is the contention of Mohamed that Yedhastu is a fabricated document that has been prepared subsequently in order to maintain the suit.

3. On the contrary, the petitioners have also filed an application under RTI Act and obtained information to the effect that the Non judicial Stamp Papers bearing Nos.06AA990206 and 06AA990207 on which Yedhastu has been prepared, was sold to Aathi Vinayagam, Stamp Vendor on 12.09.2006. Therefore, the scope of Police investigation is whether Yedhastu has been subsequently prepared or was already in existence earlier. Of course, criminal complaint is maintainable in respect of a document that is alleged to have been prepared outside the Court and filed subsequently in a civil proceeding.

List this matter on 28.01.2015 under the caption 'for orders'.

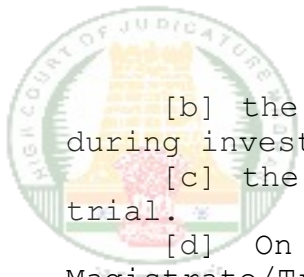
3. Today, the learned counsel for the intervenor very strongly objected to the grant of anticipatory bail on the ground that the first petitioner/Akbar Ali had earlier entered into the house of the de-facto complainant and had attacked his wife, who is none other than Akbar Ali's own sister, with knife. In this regard, a case was registered by Pettai Police Station in Crime No.1091 of 2013.

4. At the first blush, this Court was not inclined to grant anticipatory bail to the petitioners, but on a closure reading of the FIR, it appears that this case was of the year 2013 and only subsequently the present complaint has been given and a case has been registered on 04.06.2014 on the allegations that the Yedhastu is a fabricated document. It is not a case of the de-facto complainant that his signature has been forged in the Yedhastu. It is the case that the father and sons have created an Yedhastu with a stamp paper, which is alleged to have been procured subsequently.

5. On the contrary, as stated by me earlier, the petitioners have also obtained an information from the concerned authorities that the said stamp paper was sold to one Aathi Vinayagam. Under such circumstances, this Court is inclined to grant anticipatory bail to the petitioners, but with conditions.

6. Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance before the learned Special Court for Land Grabbing Cases, Tirunelveli, on executing a separate 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 and on further condition that,

(a) the petitioners shall report before the respondent police every day twice, i.e. at 10.30 a.m. and 6.30 p.m. for a period of four weeks and thereafter as and when required for interrogation.



[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] 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].

sd/-
28/01/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE SPECIAL COURT FOR LAND GRABBING CASES, TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE, CITY CRIME BRANCH, TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to M/S. N. MOHIDEEN BASHA Advocate SR.No. 3873.

TS/30.01.2015/2P-5C

ORDER
IN
CRL OP(MD) No.14490 of 2014
Date :28/01/2015