



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

Wednesday, the Sixteenth day of December Two Thousand Fifteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.21430 of 2015

1 SHAJI  
2 IDA  
3 SOOSAI NAYAGAM  
4 VINCENT  
5 RANI

..PETITIONERS/ACCUSED 1 to 5

ROSALIN

..INTERVENOR

Vs.

STATE REP.BY THE INSPECTOR OF POLICE  
ANTI LAND GARABBING WING, NAGERCOIL,  
KANYAKUMARI DISTRICT.  
(CRIME NO.66 OF 2015)

..RESPONDENT/COMPLAINANT

For Petitioner : M/S M.R.SREENIVASAN Advocate  
For Respondent : Mr.K.ANBARASAN, Government Advocate (Crl.Side)  
For Intervenor : M/s.L.VICTORIA GOWRI, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 to 5, apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 467, 468, 471 and 420 of IPC, in Crime No.66 of 2015, on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that the de-facto complainant is the owner of the land, measuring an extent of 20 cents in R.S.No.319/3A/A34 of Ezhadesam Village and 7 cents of land in R.S.No.320/1A1A3 of the same Village. The first petitioner approached the de-facto complainant stating that he would arrange to sell the property in R.S.No.319/3A/A34 of Ezhadesam Village and the de-facto complainant agreed to sell 10 cents of land in R.S.No.319/3A/A34 of Ezhadesam Village, for a sale consideration of Rs.30,000/- per cent. Through the first petitioner, the de-facto complainant sold five cents to one Lourd Mary and another five cents to Delfi, in R.S.No.319/3A/A34 of Ezhadesam Village on 31.05.2007, however, the sale amount was not paid to the de-facto complainant. When the de-facto complainant demanded to pay the amounts, the purchasers of the properties informed that they had already handed over the sale consideration to the first petitioner/A1. When the de-facto complainant was questioned the same, the first petitioner stated that only if she executes power of attorney for the remaining 10 cents in R.S.No.319/3A/A34 of Ezhadesam Village, he would sell the same and only thereafter, pay the entire amount. De-facto complainant, by executing his version, the de-facto complainant executed a power of attorney appointing the first petitioner/A1 as her Power Agent to deal with the remaining property, measuring an extent of 10 cents. Taking



advantage of illiteracy of the de-facto complainant, the first petitioner, by mentioning 17 cents instead of 10 cents in the power of attorney deed, created documents, as though she executed the power of attorney to deal with the entire 17 cents. Subsequently, he sold away the entire 17 cents to his wife, the second petitioner herein and brother-in-law and father.

3. The case of the petitioners is that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Further, it is a civil dispute. The de-facto complainant had filed O.S.No.331 of 2009 on the file of the District Munsif Court, Kuzhithurai, for injunction against the petitioners. Subsequently, the said suit was dismissed on 21.04.2010. As against the Judgment and Decree, the de-facto complainant filed A.S.No.52 of 2010 on the file of the Sub-Court, Kuzhithurai, which was dismissed as withdrawn with liberty to file a suit for recovery of money.

4. The learned Government Advocate (Criminal side) submitted that investigation is pending in this case.

5. Considering the facts and circumstances of the case and also the fact that the entire transactions took place in the year 2007 and that the de-facto complainant initiated civil proceedings in O.S.No.331 of 2009 for injunction, which was dismissed and the first appeal filed by her was also dismissed as withdrawn, this Court is of the considered view that custodial interrogation of the petitioners is not necessary. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.II, Kuzhithurai, and on each of them executing 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 learned Magistrate concerned and on further condition that the petitioners 1, 3 and 4 shall report before the respondent police daily at 10.00 a.m., until further orders and the petitioners 2 and 5 shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C. scrupulously.

7. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-

16/12/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI, KANYAKUMARI DISTRICT.
- 2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL.
- 3 THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE INSPECTOR OF POLICE, ANTI LAND GARABBING WING, NAGERCOIL, KANYAKUMARI DISTRICT.

+1. CC to M/S M.R.SREENIVASAN Advocate SR.No.72173

ORDER IN

CRL OP(MD) No.21430 of 2015

Date :16/12/2015