



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

Tuesday, the Eighth day of December Two Thousand Fifteen

PRESENT

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

CRL OP(MD) Nos.23010 and 20610 of 2015

1 SIVASUBRAMONIAM

2 PREMA

... PETITIONERS / ACCUSED NO.1 & 2
IN CRL.O.P(MD)NO.23010/2015

SOMU

... PETITIONER / ACCUSED NO.4
IN CRL.O.P(MD)NO.20610/2015

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, NAGERCOIL,
KANYAKUMARI DISTRICT.
CRIME NO.69/2015
(RESPECTIVELY)

... RESPONDENT / COMPLAINANT
IN BOTH THE CASES

For Petitioner : M/S.ISSAC MOHANLAL Advocate
IN CRL.O.P(MD)NO.23010/2015

For Petitioner : MR.VISHNUVARTHAN FOR MR.R.NARMATHAN, Advocate
IN CRL.O.P(MD)NO.20610/2015

For Respondent : MR.K.ANBARASAN, Govt. Advocate (Crl. Side)
IN BOTH THE CASES

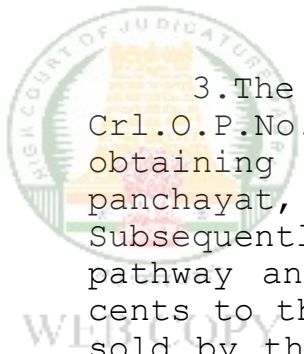
For Intervenor : Mr.G.K.R.PANDIYAN, Advocate

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 & 2 and the fourth accused in Crime No.69 of 2015 on the file of the respondent police, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 468, 469, 471, 420 and 120(B) of IPC and hence, seek anticipatory bail.

2.The case of the prosecution is that the first and second accused, who are the owners of the property formed a lay-out in Re-Survey No. 142/7 of Therikalputhooor, Agastheeswaram, and obtained permission from the panchayat. At that time, they gifted the land for forming pathway and subsequently, the first and second accused sold the property already gifted to the panchayat to the third accused. The petitioner in Crl. O.P.NO. 20610 of 2015 is an attesting witness to the said document.



3.The case of the petitioners is that the petitioners in Crl.O.P.No.23010 of 2015 are the owners of the property and after obtaining permission from the panchayat and with approval of the panchayat, they formed a lay-out leaving 12 cents for pathway. Subsequently, they gifted 7 cents to the panchayat for forming a pathway and subsequently, the first and second accused sold 1.042 cents to the third accused from and out of balance 5 cents. The land sold by the petitioners in Crl.O.P.No.23010 of 2015 was not gifted to the panchayat and the third accused already filed a suit in O.S.No. 237 of 2015 on the file of the Principal District Munsif, Nagercoil, for permanent injunction restraining the panchayat from taking any steps for laying a road in in the property in question in any manner and the said suit is pending.

4. The learned counsel for the petitioners submitted that the land gifted to the panchayt is in existence and they did not sell the property to the third parties. He would further submit that this Court has granted to the third accused in Crl.O.P.(MD)No.22686 of 2015, dated 07.12.2015.

5. The learned Government Advocate(Crl. Side) on instructions submitted that the first and second accused sold the property in question to the third accused after gifting the same to the panchayat and investigation is pending.

6.Considering the facts and circumstances of the case and also considering the fact that the injured had already been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners in Crl.O.P.(MD) No. 23010 are ordered to be released on bail in the event of arrest or on their appearance before the learned Principal District and Sessions Judge of Kanyakumari District at Nagercoil and the petitioner in Crl.O.P.(MD) No.20610 of 2015 is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.I, Nagercoil and on each of them executing a separate bond for a sum of s.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judge concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 a.m. until further orders. The petitioners shall comply with the condition 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/-

08/12/2015

/ TRUE COPY /



TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE JUDICIAL MAGISTRATE NO.I
NAGERCOIL.

3 THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI AT NAGERCOIL.

4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, NAGERCOIL,
KANYAKUMARI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT MADURAI

+1. CC TO M/S.ISSAC MOHANLAL ADVOCATE SR.NO.70528

+1 CC TO MR. R.NARMATHAN,ADVOCATE, SR NO.70056

ORDER

IN

CRL OP(MD) Nos.23010 and 20610 of 2015

Date :08/12/2015

RG.SK-SKN/SAR-I 11.12.2015 3P.8C