



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

Monday, the Sixteenth day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.22987 of 2014

GOWRI ... PETITIONER / ACCUSED NO.1
M.LAKSHMI AMMAL ...INTERVENOR
Vs

1 THE SUB INSPECTOR OF POLICE
KARAIKUDI NORTH POLICE STATION, SIVAGANGAI
DIST, CR.NO.348/2014

... RESPONDENT(S) / COMPLAINANT(S)

For Petitioner : M/S.R.ALAGUMANI, Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)

For Intervenor : M.G.PRABHU RAJADURAI, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 294(b) and 506(ii) IPC in Crime No.348 of 2014 on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel for the petitioner, the learned counsel for the Intervenor and the learned Government Advocate (Crl.Side) appearing for the State.

3. On 09.02.2015, this Court passed the following order:

"2. This is second anticipatory bail petition and the first petition in Crl.O.P.(MD) No.13546 of 2014 was dismissed on 13.11.2014. On 07.01.2015, this Court passed the following order, granting interim anticipatory bail to this petitioner;

"2. The case of the prosecution is that A1, who is the husband of A2 agreed to purchase the property from the defacto complainant for Rs.1,30,00,000/- and after paying Rs.1,30,000/- and Rs.3,50,000/- as advance, obtained power of attorney in favour of one Ravindran. Subsequently, without paying the balance sale consideration, he made Ravindran to execute the sale in respect of the said property in favour of his wife Gowry / A2.

3. As regards the petitioner/A2 is concerned, she is the wife of A1 in whose favour the said Ravindran had executed the sale deed in respect of the said property. Today, the daughter of the defacto complainant is present. The petitioner Gowry / A1 has filed an affidavit in Tamil



undertaking to cancel the sale deed No.387/2014. Her undertaking is taken on file. Under such circumstances, I am inclined to grant interim anticipatory bail to the petitioner/A2 for a period of four weeks, so that she could comply with the undertaking that has been given to this Court."

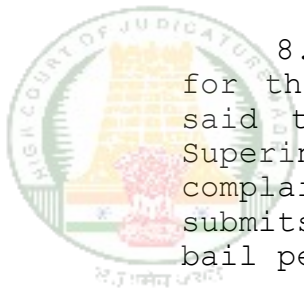
3. Today, this matter was posted for reporting compliance and it is true that Gowri has also filed an affidavit before this Court, undertaking to cancel the sale deed in Doc.No.387 of 2014 executed by one Ravindran in her favour. But, when the matter was taken up for hearing today, counsel has been changed for Gowri and Mr.Alagumani, learned counsel entered appearance for her. It is pointed out by Mr.Alagumani that several important factors were not brought to the notice of this Court earlier and in this petition also. Though at the first blush, I was not inclined to accede to the request of learned counsel for reconsidering my earlier order, learned counsel persuaded me to go through the documents, which were startling in nature.

4. It is seen that the defacto complainant by name Lakshmiammal has given a complaint on 18.03.2014 to the Superintendent of Police, Sivaganga District, wherein she has given totally a different version of the entire transaction. According to her, she had given a settlement deed in favour of her son by name Palaniappan and later on since Palaniappan did not take care of her, she cancelled the settlement deed. She has further stated in the complaint that she has executed a Power of Attorney in favour of one Ravindran, who in turn sold the property to Gowry, W/o. Senthilnathan (the petitioner herein) on 25.02.2014 and presented the document before Joint-I Sub-Registrar, Karaikudi for the purpose of registration. She has also stated in the complaint that the Registrar was keeping the document pending inspection of the building. While so, it is alleged by her that Palaniappan along with one Pandidurai and Devasena had illegally taken away the sale deed from the office of the Sub-Registrar and filed a suit in O.S.No.39 of 2014.

5. The crux of the allegation in that complaint is that her son Palaniappan, Pandidurai and Devasena had cheated her in collusion with the Sub-Registrar. In the said complaint, there is no whisper about any allegation against Gowri (the petitioner herein), her husband Senthilnathan or Ravindran.

6. On perusal of the plaint in O.S.No.39 of 2014, it is seen that Palaniappan, Devasena, Meyyappan and Alamelu @ Meyyammal have filed a suit against Lakshmi Ammal, Ravindran, Gowri and Joint I Sub-Registrar, Karaikudi. Thus, this petitioner / accused has been arrayed as defendant along with the defacto complainant in the suit. In the said suit, the grievance of Palaniappan is that the defacto complainant in order to thwart their rights, has registered the sale deed in favour of Gowri by Doc.No.387 of 2014.

7. The present FIR has been registered pursuant to the complaint given by the defacto complainant on 19.06.2014. In this FIR also, there is absolutely suppression about the suit in O.S.No.39 of 2014 as well as the earlier complaint that was



8. At this juncture, Mr. Prabhu Rajadurai, learned counsel for the Intervenor submits that the first complaint, which is said to have been given by the defacto complainant to the Superintendent of Police was not at all given by the defacto complainant and the same was engineered by someone. He further submits that this was on record, when the earlier anticipatory bail petition was considered by this Court and dismissed.

9. I have carefully read the order passed by the learned brother Judge in Crl.O.P.(MD) No.13546 of 2014 in which there is no finding vis-a-vis the complaint dated 17.03.2014 that was given by the defacto complainant to the Superintendent of Police. Therefore, the Inspector of Police is directed to verify from the Office of the Superintendent of Police about the fact of receipt of complaint dated 17.03.2014 and report to this Court along with the entire file on 11.02.2015.

10. Post on 11.02.2015. Interim order already granted is extended till then.

4. Today, when the matter was taken up for hearing, Police produced the original file from the office of the Superintendent of Police. On perusal of the file, it is seen that the defacto complainant has indeed given a complaint to the Police giving a totally different version and she has also given a written complaint in Tamil on 18.03.2014, wherein she does not in any way implicate either Gowri (the petitioner herein) or her husband.

5. Learned counsel for the defacto complainant submitted that the defacto complainant has nowhere stated that she has received the sale consideration for the house from the petitioner and further he submitted that the property is in the possession of the defacto complainant, which itself would show that the sale was a sham.

6. Per contra, learned counsel for the petitioner submitted that in the General Power of Attorney dated 12.02.2014 given by the defacto complainant in favour of Ravindran, defacto complainant's daughter Pushpavalli has signed as witness. Similarly, in the sale deed dated 25.02.2014, executed by the Power Agent of the defacto complainant in favour of Gowri, one Manikandan, who is aged about 30 years has signed as witness. Therefore, he submitted that the contention of the defacto complainant that all these transactions are sham, cannot be sustained.

7. There appears to be force in the submission of the learned counsel for the petitioner. Be that as it may, it is seen that Police have completed the investigation and filed a final report on 30.07.2014. Under such circumstances, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Karaikudi, 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 concerned and on further condition that:

[a] the petitioner shall report before the respondent police as and when required for interrogation.

<https://hcservices.ecourts.gov.in/hcservices/>

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



[c] the petitioner 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 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].

8. It is made clear that whatever stated above is only for the purpose of deciding this anticipatory bail petition and it shall not in any way prejudice the case of either party pending before other Courts.

sd/-
16/02/2015

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

TO

1.THE JUDICIAL MAGISTRATE, KARAUKUDI, SIVAGANGAI DISTRICT.

2.THE CHIEF JUDICIAL MAGISTRATE,SIVAGANGAI.

3.THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4.THE SUB INSPECTOR OF POLICE
KARAUKUDI NORTH POLICE STATION, SIVAGANGAI DISTRICT.

+1. CC to M/S.V.KANNAN Advocate SR.No.6396

ORDER
IN
CRL OP(MD) No.22987 of 2014
Date :16/02/2015

RG.16.02.2015 4P.6C.