



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Twenty Fifth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.3118 of 2015

1 NEELAKANDAN

2 VELUCHAMY

..PETITIONERS/ACCUSED 1 & 2

P.SIVASUBRAMANI

..INTERVENOR

Vs.

STATE REP.BY THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH, KARUR.

CRIME NO.11 OF 2015

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.KAMESWARAN Advocate

For Respondent : Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side)

Fro Intervenor : Mr.V.BALAJI, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 120 (B), 405, 464 and 420 of Indian Penal Code in Crime No.11 of 2015 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsel for the petitioners, the learned counsel for the intervenor and the learned Government Advocate (Criminal side).

3. This case has been registered, pursuant to the direction issued by this Court in Crl.O.P.No.21762 of 2014 on 26.11.2014.

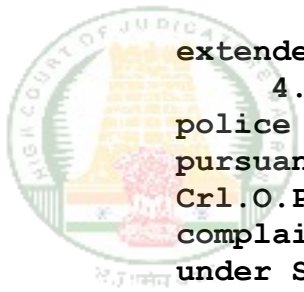
4. The learned counsel for the intervenor very strongly objects to the grant of anticipatory bail to the petitioners.

5. On 23.03.2015, 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 406, 420, 120(B), 467,468 and 506(i) I.P.C. in Crime No.Not known of 2015 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned Counsel for the petitioners the learned Government Advocate (Crl.Side) and the learned Counsel for the intervenor.

3. Earlier, this petition was filed showing crime number as "Not Known". Therefore, this Court granted interim anticipatory bail to the petitioners on 23.02.2015 with a direction to the petitioners to appear before the respondent police daily at 05.30p.m. till 09.03.2015. On 09.03.2015, when the case was taken up for hearing, the learned Government Advocate (Crl.Side) submitted that the police require some more time for completing the preliminary enquiry in this case. Therefore, this Court



extended the interim anticipatory bail till today.

4. Today, when the matter was taken up, the respondent police have filed a status report, in which they have stated that pursuant to the directions issued by this Court in CrI.O.P.No.21762 of 2014 filed by the intervenor/defacto complainant, a regular case in Cr.No.11 of 2015 for offences under Sections 120(B), 406, 464, 420 I.P.C. has been registered.

5. The crux of the allegations in the F.I.R. is as follows:

One Mr.Palanichamy, who is the father of the Sivasubramani, defacto complainant herein and Sivakumar, the brother of Neelagandan (A.1) were partners in Amar Suriya Investment and Amar Suriya Finance Corporation. According to the defacto complainant, Palanichamy and he gave a power of attorney dated 06.12.2000 in favour of Neelagandan (A-1) in respect of their property. It is stated that Sivasubramanian withdrew from the partnership of Amar Suriya Investment and Amar Suriya Finance Corporation on 20.04.2002, after all his dues were settled. Thereafter, it is stated by the defacto complainant that Neelagandan used the power of attorney dated 06.12.2000 and sold the property of the defacto complainant to Veluchamy (A.2), who was already a partner in the said firm for a meagre sum of Rs.2,100/-. Palanichamy died in the year 2007. After the death of Palanichamy, when the defacto complainant went to his land in the year 2014, he found that it was in possession of Veluchamy and only then, he came to know that Neelakandan(A.1) sold the property to A.2. Hence, the present complaint has been lodged.

6. The learned Counsel for the defcato complainant submitted that the defacto complainant never knew about the sale till 2014, when he went to the property and that it was in the possession of Veluchamy (A.2).

7. This Court carefully perused the sale deed dated 25.06.2004 executed by Neelakandan (A-1) as power agent of Palanichamy and Sivasubramani in favour of Veluchamy. In the sale deed, it is vividly described that Palanichamy had taken loans from Amar Suriya Investment and Amar Suriya Finance Corporation and that he had not repaid the amount and in discharge of those loans, the property is being sold to Veluchamy (A-2).

8. The learned Counsel for the intervenor seeks further time to advance his further arguments.

Post for orders on 25.03.2015."

6. It is submitted by the learned counsel for the *defacto* complainant that the power of attorney was issued as early as on 06.12.2000 and he never came to know about the fact that the first petitioner has sold the property in the year 2004 and that he came to know about it only subsequently. The learned counsel also contended that even in the power of attorney, it is stated that power agent should have to give all the accounts to the principals, which, the first petitioner had failed to comply.

7. On a careful scrutiny of the records in this case, the power of attorney is not a forged document, but was validly given by the *defacto* complainant and his father Palanichamy to the first petitioner.

8. The learned counsel for the *defacto* complainant submits that when the *defacto* complainant retired from 'Amar Surya Finance Corporation' on

20.04.2002, there was no due from him to the Firm. Therefore, the averments in the sale deed dated 25.06.2004 that the sale is being effected for the dues of the *defacto* complainant, cannot be true.

9. I am unable to persuade myself to agree with his submission, because, as stated by me above, the first petitioner has disclosed everything in detail in the sale deed dated 25.06.2004, which was executed in favour of the second petitioner herein, when the *defacto* complainant's father Palanichamy himself was alive. After the death of Palanichamy in 2007, the *defacto* complainant had not taken any steps and I am unable to countenance the submission that till 2014, the *defacto* complainant did not know anything about the fate of the power of attorney, which he and his father had executed on 06.12.2000. In the facts and circumstances obtaining in this case, where everything is borne out by records, custodial interrogation of these petitioners may not be necessary.

10. Under such circumstances, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Karur, on condition that the petitioners shall execute 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 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]**.

11. It is made clear that nothing stated herein shall prejudice the case of either parties in any civil proceedings.

sd/-

25/03/2015

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Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, KARUR.
- 2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE, KARUR.
- 3 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.
- 4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, KARUR.

+1. CC to M/S.S.KAMESWARAN Advocate SR.No.14720

ORDER IN

CRL OP(MD) No.3118 of 2015

Date :25/03/2015

PBK 26/03/2015 ::3P-6C: