



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

Monday, the Eleventh day of July Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.10669 of 2016

1 P.RAJ

2 VALLIAMMAL

... PETITIONERS/ACCUSED NO.2 & 3

THE STATE REP.BY ITS
INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL,
TIRUNELVELI.

(CRIME NO.14 OF 2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S S.SELVAKUMAR Advocate

For Respondent : MR.P.KANNITHEVAN Govt. Advocate (Crl. Side)

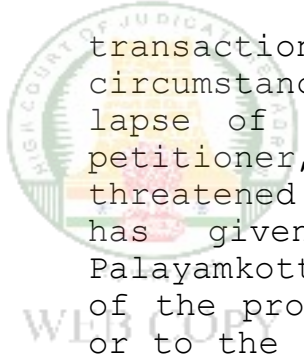
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.2 and 3 apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 419, 420, 465, 467, 468, 471 & 506(i) IPC, in Crime No.14 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with A1 - Shanmugam @ Swaminathan created a fabricated mortgage deed in order to grab the property of the *de-facto* complainant. The *de-facto* complainant got the same by way of settlement deed from his father one Shanmugam Chettiar on 31.07.2014. On complaint, case has been registered for the offences stated above.

3. The case of the petitioners is that A1 and his wife approached the petitioners to get loan for their immediate family expenses and A1 borrowed a sum of Rs.6,50,000/- from the first petitioner in the year 2007 and agreed to sell the property in question to the first petitioner. Further, A1 has executed General Power of Attorney in favour of the first petitioner with regard to the same property. In order to secure the amount borrowed by A1, the first petitioner executed the mortgage deed with regard to the property in question in favour of his wife, the second petitioner herein. The *de-facto* complainant's father had settled the property on the *de-facto* complainant on 31.07.2014, while the loan



transaction took place in the year 2007-2008. In these circumstances, A1 has not repaid the said loan amount even after lapse of two years. When the same was demanded by the first petitioner, A1 and his wife abused him in filthy language and threatened him with dire consequences. Hence, the first petitioner has given a complaint, before the Inspector of Police, Palayamkottai, on 13.11.2010 against the accused persons. The title of the property was not transferred either to the first petitioner or to the second petitioner. Further, the second petitioner has no role in the entire transactions. The first petitioner himself is cheated by A1, who is brother-in-law of the *de-facto* complainant. If A1 co-operates, the petitioners are willing to cancel the mortgage deed.

4. The learned Government Advocate (Criminal side) submitted that on receiving complaint, case has been registered and the investigation is going on.

5. Considering the fact that A1 borrowed money in the year 2007 and agreed to sell the property and executed the Power of Attorney in favour of the first petitioner and mortgage deed is of the year 2008, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, they 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, Tirunelveli, on condition that each of them 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the first petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders and the second petitioner shall report before the respondent police as and when required for interrogation;
- (ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.
- (iii) the petitioners shall not abscond either during investigation or trial.
- (iv) 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]**.



6. The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioners are complying with the conditions or not.

sd/-

11/07/2016

/ TRUE COPY /

WEB COPY

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

AM
TO

- 1 THE JUDICIAL MAGISTRATE, TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT
- 3 THE INSPECTOR OF POLICE, ANTI LAND GRABBING SPECIAL CELL,
TIRUNELVELI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to M/S S.SELVAKUMAR Advocate SR.No.35484

GJM/GSV/PM/SAR-I-20.7.16-3P-6C

ORDER

IN

CRL OP (MD) No.10669 of 2016

Date :11/07/2016