



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

Friday, the Second day of September Two Thousand Sixteen
PRESENT

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

CRL OP (MD) No.15893 of 2016

WEB COPY

1 T.N.NAGARAJAN
2 R.S.SRIKUMAR
3 S.R.RATHISH

... PETITIONERS/ACCUSED Nos.2,3 & 5

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH
NAGERCOIL,KANYAKUMARI DISTRICT.
CR.NO.14 OF 2016

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.AL.KANNAN 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, 3 & 5, apprehend arrest at the hands of the respondent police for the offences punishable under Sections 468, 465, 466, 471 and 420 IPC, in Crime No.14 of 2016, on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that A.1 borrowed a sum of Rs.20 lakhs from the defacto complainant. He did not repay the amount. The defacto complainant filed a suit in O.S.No.106 of 2014 on the file of the learned Principal District Judge, Nagercoil and obtained an order of Attachment Before Judgment. While Attachment Before Judgment was subsisting, the petitioners 1 and 2 in collusion with A.4, who is the Sub-Registrar of Thucklay, sold the property to the third petitioner. On complaint, a case has been registered for the above said offences.

3.The case of the petitioners is that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and they are not aware of the suit filed by the defacto complainant against A.1 and order of Attachment. In the Encumbrance Certificate, order of Attachment is not mentioned. The petitioners are only the bonafide purchasers. The third petitioner, who is in possession of the property, filed I.A.No.89 of 2016 to raise the order of attachment. Only to defeat the right of the petitioners, the defacto complainant has given a false complaint. On an earlier occasion, the defacto complainant gave complaints before the District Crime Branch, Nagercoil and the Anti-land Grabbing Cell.



In both the complaints, the petitioners were enquired and the same has been closed as 'a mistake of fact.

4.The learned counsel for the petitioners has submitted that the defacto complainant has given the third compliant only to defeat the civil right of the petitioners. While so, on 17.08.2016, between 01.30 to 04.30 hours, the respondent Police trespassed into the house of the third petitioner and broke open the lock and they were searching for some document and the same is recorded in the C.C.TV camera kept in his residence. The third petitioner has sent a complaint to the Superintendent of Police. The petitioners are innocent and they have not committed any offence as alleged by the prosecution.

5.The learned Government Advocate (Criminal Side) submitted that the petitioners in collusion with other accused persons, knowing fully well about the pendency of the suit and order of Attachment Before Judgment, purchased the property, with a view to cheat the defacto complainant and investigation is still pending.

6.Considering the facts and circumstances of the case and also considering the nature of allegations made against the petitioners and the pendency of the suit and I.A.No.89 of 2016 filed by the third petitioner to raise the order of Attachment, custodial interrogation of the petitioners are not required, 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 No.1, Nagercoil, Kanyakumari District, on condition that each of the petitioners 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 petitioners shall report before the learned Judicial Magistrate No.1, Nagercoil, Kanyakumari District, daily at 10.30 a.m., for a period a period of two weeks.
- (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].

7. 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/-
02/09/2016

/ TRUE COPY /

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

TO

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

+2 CCs to M/S.AL. KANNAN Advocate SR.Nos.49609 & 49839

ORDER
IN
CRL OP(MD) No.15893 of 2016
Date :02/09/2016

PA/AAL-MPA/SAR I/09.09.2016/3P/7C