

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fifth day of May Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. KALAIYARASAN

CRIMINAL ORIGINAL PETITION No.9183 of 2017

1 P.JAYAPAL [PETITIONERS / ACCUSED]
2 PATTAN
3 THIRUPATHI
4 LAKSHMANAN

Vs

THE STATE REP. BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
THAMMAMPATTY POLICE STATION
THAMMAMPATTY, SALEM DISTRICT
CR.NO.90 OF 2017.

For Petitioner : M/S.R.MARGABANDHU Advocate

For Respondent : MR. B.RAMESH BABU, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

Heard both sides.

2. The petitioners, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 199, 209, 415, 416, 417, 420, 468, 472, 191 and 192 IPC on the file of the respondent and seeks anticipatory bail.

3. The case of the prosecution is that the petitioners played fraud on the court and obtained fraudulent decree against the defacto-complainant and consequently got the sale deed executed of the land belonging to the defacto-complainant in favour of the first petitioner. The sale agreement based on which the suit was filed and the memo filed before the Court are all forged one.

4. The learned counsel for the petitioners submits that the petitioners filed suit before the competent Court and got the decree and if any fraud is alleged to have been committed in the court proceedings with respect to the production of documents such allegations / offences cannot be taken cognizance by any Court, except on the complaint in writing of the public servant concerned, as per Section 195 of the Code of Criminal Procedure.

5. The learned Government Advocate (Crl. side) opposes this application contending that investigation is at preliminary stage.

6. The allegations as against the petitioners are that the suit was filed by the petitioners by placing the forged sale agreement and obtained a decree by filing a forged memo alleged to have been signed by the defacto-complainant. Thus, the documents given in evidence before the Court which passed the decree are alleged to have been forged. Therefore, concerned Court has to either suo motu or on petition analyse and come to a conclusion as to the said allegations and if the concerned Court is satisfied that there is prima facie case to lodge a complaint, the Court has to lodge a complaint before the Jurisdictional Magistrate. Therefore, the argument of the learned counsel for the petitioners in this regard is acceptable.

7. Considering the existence of the decree, the fact that the petitioners are having permanent residence and also the facts and circumstances, this Court is inclined to grant Anticipatory Bail.

8. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judicial Magistrate No.II, Salem and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 a.m for a period of two weeks and thereafter as and when required. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

9. The petitioners shall appear before the concerned Judicial 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/-

05/05/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THAMMAMPATTY POLICE STATION
THAMMAMPATTY, SALEM DISTRICT.

+1 CC to M/S.R.MARGABANDHU Advocate on payment of necessary
charges SR.NO.8511

CRL OP.9183/2017

Date :05/05/2017

PTI-10/05/2017