



WEB COPY

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

Tuesday, the Third day of January Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.22627 of 2016
and CRL.MP(MD).12176 of 2016

1 HARSHITHA
2 SRIKUMAR

... PETITIONERS / ACCUSED NO.2 & 3

Vs

STATE OF TAMILNADU REP BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI CITY.
(CRIME NO.24 OF 2016)

... RESPONDENT / COMPLAINANT

B.J.SAROJA

... INTERVENE PETITIONER/
DEFACTO COMPLAINANT

For Petitioner : M/S.C.MUTHUSARAVANAN Advocate

For Respondent : Govt. Advocate (Crl. Side)

For Intervenor : M/S.MUTHUVIJAYAPANDIAN, 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 offence punishable under Sections 406, 420 and 120(b) IPC in Crime No.24 of 2016 on the file of the respondent Police, seek anticipatory bail.

2.The case of the petitioners is that A1 and A2 are wife and husband respectively. A1 is the mother of the 2nd petitioner and the mother-in-law of the 1st petitioner. The de facto complainant / intervenor purchased a property to an extent of 1230 sq.ft. on the eastern side of Plot No.20, Old Door No.14, New Door No.17 by way of a registered sale deed dated 13.03.2013 for the sale consideration of Rs.22 lakhs and another property to extent of 660 sq.ft.on the northern side of the above said property by way of a registered sale deed dated 21.04.2014 for the sale consideration of Rs.23 lakhs from A1.

3.The learned counsel appearing for the petitioners / A2 and A3 contends that A1 in this case had executed a gift deed bequeathing the properties in favour of the 2nd petitioner by way of a settlement deed dated 07.12.2011, who inturn had executed a



registered settlement deed on 11.01.2012 in favour of the 1st petitioner in respect of the very same property. It is further stated that the 1st petitioner apprehended that A1 may alienate these properties by legal means and hence, she filed a suit in O.S.No.698 of 2014 before the Additional District Munsif Court, Madurai and obtained a decree on 24.02.2016 restraining A1 from canceling the settlement deed dated 07.12.2011 executed in favour of the 2nd petitioner and also from alienating or encumbering the suit property and the 1st petitioner filed another suit in O.S.166 of 2015 against A1 and A3 in this case and also against the intervenor / de facto complainant before the District Munsif Court, Madurai Town for declaration, declaring the sale deeds dated 13.03.2013 and 21.04.2014 in favour of the intervenor executed by A1 as null and void and consequently, restraining the intervenor / de facto complainant from alienating or encumbering the said properties, which were purchased by him. The said suit is still pending.

4.The learned Government Advocate (Crl.side) appearing for the respondent Police contended that all the accused are living in the same property and conspired together and suppressed the execution of the settlement deed executed by A1 in favour of A3, who in turn settled the very same property in favour of A2 and also executed the sale deeds in favour of the de facto complainant / intervenor.

5.Perused the records produced by both parties. The records reveal the fact that all the accused are living in the same property and the alleged settlement deeds, who were executed in favour of the petitioners in the year 2011 and 2012 respectively. The 1st petitioner filed the suit in O.S.No.698 of 2014 against her mother-in-law (A1) and her husband (A3) and after the execution of sale deeds by A1 in favour of the intervenor in the year 2013 and 2014 and obtained a decree in which, the mother-in-law remained expartee. The 2nd defendant in the suit is the husband of the plaintiff / 1st petitioner herein. The relief sought for in the said suit is restraining the mother-in-law / A1 by an order of permanent injunction from canceling the settlement deed dated 07.12.2011 executed by A1 in favour of the 2nd petitioner herein. The decree in the above said suit was passed on 24.02.2016 while the second suit filed by the 1st petitioner is pending in O.S.No.166 of 2015 is pending.

6.From the above facts, it is clear that the 1st accused in this case alone has suppressed the execution of the settlement deeds by her in favour of her son, who is the 2nd petitioner herein and executed the sale deeds in favour of the de facto complainant / intervenor.



7.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail in favour of the petitioners herein. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.I, Madurai City, on condition that 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 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 daily at 10.30 a.m. until further orders.

[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).

sd/-
03/01/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.1)

TO

- 1 THE JUDICIAL MAGISTRATE NO.1
MADURAI.
- 2 -DO THROUGH-
THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
- 3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI CITY.
- 4 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.C.MUTHUSARAVANAN Advocate SR.No.304

ORDER IN
CRL OP(MD) No.22627 of 2016
Date :03/01/2017