

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twentieth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.15106 of 2018

MOHAMED NAZEER

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY

[RESPONDENT]

THE INSPECTOR OF POLICE,

N3 MUTHIALPET POLICE STATION,

CHENNAI-600 001.

CR.NO.222 OF 2018

For Petitioner : M/S.S.MOHAN Advocate

For Respondent : MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.222 of 2018 registered by the respondent police for the offence punishable under Sections 465, 467, 468, 471 and 506(i) of IPC.

2. The case of the prosecution as per the defacto complainant Venkatesan is that he is the Trustee of Sri Selva Vinayagar Koil at Cuddalore and that by fabrication of documents, one Nagasundaram(A1) during the year 1992, by obtaining orders of the Court, had sold the property to one Sajitha Parveen and Zamruth Begum. Coming to know of the offence committed by 6 persons, the petitioner had filed suits for setting aside the sale deed and that there were various litigations pending before the High Court as well as the Supreme Court in respect of the disputed property. The further allegation is that the City Civil Court in O.S.No.903 of 2016, had cancelled the sale deed and had directed the said Sajitha Parveen and Zamruth Begum not to create any Encumbrance. While so, the petitioner viz., Mohamed Nazeer had entered into a lease and was in possession of the property and on 16.04.2018 around 11.00.a.m, the defacto complainant had gone to the place to enquire with Mohamed Nazeer and the said Mohamed Nazeer had threatened the defacto complainant with dire consequences stating that he along with other religious organizations will do away with him and created communal disharmony.

3. The learned counsel for the petitioner submitted that the petitioner is arrayed as A8 and that he is a lessee in respect of the disputed property and that rival civil suits are pending in

respect of the same property and that while the suits are pending in order to dispossess the petitioner by force, a false complaint has been given by the defacto complainant. He would further submit that on the particular day, the petitioner was not at all available and he was at his native place in Paramakudi, whereas, a false complaint has been given as if the petitioner was present and also threatened the defacto complainant. However, he would submit that without prejudice to his contention, even the entire allegation taken to be true, the allegation against the petitioner is that he only intimidated the defacto complainant other than that he is not concerned with the other allegations of forgery and fabrication of records.

4. The learned Additional Public Prosecutor appearing for the State submitted that the petitioner, who is a lessee in respect of the disputed premises, threatened the defacto complainant, when the defacto complainant had gone to the place to enquire about the place.

5. Taking into consideration the facts of the case and also the submission made by the learned Additional Public Prosecutor, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned XVI Metropolitan Magistrate, George Town, on condition that the petitioner 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) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioner shall report before the respondent police daily at 10.30.a.m. until further orders.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
20/06/2018

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 METROPOLITAN MAGISTRATE,
NO.XVI, GEORGE TOWN, CHENNAI-600 001.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
N3 MUTHIALPET POLICE STATION,
CHENNAI-600 001.

+2CC to M/S.S.MOHAN Advocate on payment of necessary charges
SR NO.11074

CRL OP.15106/2018

Date :20/06/2018

MK:27/06/2018