

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Nineteenth day of June Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.15404 of 2018

1 DHANAPAL
2 VALLI

[PETITIONERS / ACCUSED]

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE,
CHENNAI CCB-II, POLICE STATION,
CHENNAI DISTRICT,
CR.NO.78 OF 2018.

[RESPONDENT]

For Petitioner : M/S.V.VIJAYAKUMAR 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 petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 419,420,465,467,468,471,120(B) IPC in Crime No.78 of 2018, seeks anticipatory bail.

2. Heard both sides.

3. The case of the prosecution is that as per the defacto complainant one Thangabai, is that she had purchased a property near 200 feet Radial Road, Pallavaram and she was in possession and enjoyment of the said property from the year 1983. The further allegation is that trouble started when an agent approached the defacto complainant for selling her land to a big company and when the defacto complainant not shown interest in selling property, the petitioners started giving trouble to the defacto complainant in many illegal ways. Thereafter the accused have registered 13 cents of the defacto complainant's land in a lady's name in hurry-burry manner without proper documents on 29th August 2016. Finally the petitioner along with some henchmen made fabricated documents and also gave life threat to the defacto complainant. While so, the defacto complainant also received notice from the District Munsif, Alandur in I.A. No. 248 of 2017 in O.S. No. 89 of 2017. Hence, the defacto complainant had requested the respondent to take action based on which the case has been registered.

4. The learned counsel for the petitioners would submit that the land belongs to their predecessor, who are the parents of the first petitioner and he would further submit that the petitioner being the owner of the property had settled the property infavour of his wife, who is the 2nd petitioner herein. The learned counsel for the petitioner would further submit that since the defacto complainant continued to harass them by giving false complaints and interfere with their possession by henchmen, the petitioners have filed a suit for declaration and injunction in O.S. No.89 of 2017 before the learned District Munsif, Alandur and notice has also been issued to the defacto complainant. He would further submit that when rival civil claims in respect of the property are pending between parties, a false complaint has been registered by the defacto complainant to grab the property from the petitioners. He would further submit that from entire reading of the complaint, nothing has been stated by the defacto complainant as to how and what matter she became owner of the property, whereas the petitioners have filed a suit for declaration on valid documents.

5. The learned Additional Public Prosecutor submit that the petitioners who are the husband and wife have created fabricated documents to grab the property which belongs to the defacto complainant.

6. Taking into consideration the facts of the case and the submissions made by the learned counsels on either side and that a suit for declaration which is also pending before the appropriate civil court, I am inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners are 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 Judicial Magistrate, Alandur, on condition that the petitioners shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioner fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[b] the first petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and the second petitioner shall report before the respondent police daily at 10.30 a.m for the period of two weeks and thereafter as and when required.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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 have been 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A of IPC.

-sd/-
19/06/2018

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 JUDICIAL MAGISTRATE,
ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
CHENNAI CCB-II POLICE STATION,
CHENNAI DISTRICT.

+1CC to M/S.V.VIJAYAKUMAR Advocate on payment of necessary charges SR NO.11093

CRL OP.15404/2018

Date :19/06/2018

MK:25/06/2018