

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixteenth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.25112 of 2018

1 P.VASUDEVAN [PETITIONERS / ACCUSED]
2 V.VIJAYALAKSHMI
3 V.LOGESH

Vs

THE STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
PEERKANKARANAI POLICE STATION,
CHENNAI-600063.
CR.NO.NOT KNOWN OF 2018.

For Petitioners : M/S.V.S.JAGADEESAN Advocate

For Respondent : MR. M.PRABHAVATHI, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners/accused who apprehend arrest at the hands of the respondent police for the alleged offence under Section 420, 294(b), 506(ii) of IPC, in crime number 424 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution is that the defacto complainant namely Thiru.P.P.Rameshkumar, has paid a sum of Rs.4,90,000/- to purchase the property belongs to the first petitioner. After receipt of the amount, the petitioner executed a General Power of Attorney in favour of the defacto complainant on 01.11.2006. Thereafter, the defacto complainant executed a sale agreement in favour of his wife on 01.07.2009. Thereafter, the petitioner herein cancelled the Power of Attorney on 28.01.2014 by the first petitioner. The petitioner has failed to execute the sale agreement and also did not repay the above said advance amount received by the petitioner. Hence the complaint.

3. The learned counsel for the petitioner would submit that the first petitioner is the owner of the property and to maintain the suit property, and also to execute the General Power of Attorney in favour of the defacto complainant. Thereafter, what are the amount

received from the defacto complainant, which has been returned by the petitioner. Thereafter, without the knowledge of the petitioner, the Power of Attorney Holder, the defacto complainant to execute the sale agreement in favour of his own wife on 01.07.2009. After knowing this fact, on 28.01.2014, the first petitioner cancelled the General Power of Attorney executed by him in favour of the defacto complainant.

4. The learned counsel for the petitioner would further submit that he has also filed a suit in O.S.No.300 of 2017 on the file of the Sub-Court, Tambaram, for the sale agreement between the defacto complainant and his wife is not binding on the petitioners and also other relief's. Accordingly, the petitioners pray for grant of anticipatory bail.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the defacto complainant paid a sum of Rs.4,90,000/- in the year 2006. After receipt of the same, the first petitioner has executed a General Power of Attorney in favour of the defacto complainant. After receipt of the advance amount, the petitioner has failed to execute the sale deed in favour of the wife of the defacto complainant.

6. It is seen from the records that on 01.11.2006, the petitioner executed a General Power of Attorney in favour of the defacto complainant. Thereafter, on 01.07.2009, the defacto complainant executed the sale agreement in favour of his own wife. Thereafter, the General Power of Attorney was cancelled by the petitioner on 28.01.2014. Further, he has also filed a suit in O.S.No.300 of 2017 on the file of the Sub-Court, Tambaram and the suit is still pending on the file of the Sub-Court, Tambaram. Whereas, the present complaint has been lodged by the defacto complainant only on 17.10.2018 after a period of 12 years from the date of receipt of the General Power of Attorney. Hence she vehemently opposed to grant anticipatory bail to the petitioners.

7. Considering the above facts and circumstances that the dispute is civil in nature, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners 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 on which the order copy made ready, before the learned Judicial Magistrate, Tambaram, 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

<https://hcservices.ecourts.gov.in/hcservices/>

[b] the petitioners shall report before the respondent police at 10.30 a.m, for a 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 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 229A IPC.

-sd/-
16/11/2018

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,
TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE SUB-COURT,
TAMBARAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PEERKANKARANAI POLICE STATION,
CHENNAI 600063.

+1 CC to M/S.V.S.JAGADEESAN Advocate on payment of necessary charges SR.NO.21677

CRL OP.25112/2018

Date :16/11/2018