



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

Wednesday, the Fourteenth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.2257 of 2018

1 MUTHUSAMY
2 SIVAGAMI

... PETITIONERS / ACCUSED NO.1&2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
IN CR.NO. 604/2017

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.P.KRISHNASAMY Advocate
For Respondent : MR.A.ROBINSON Govt. Advocate (Crl. Side)

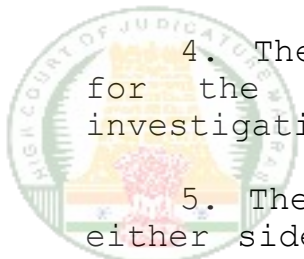
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(b), 294(b), 354, 420, 467, 468, 471 and 506(ii) of IPC., in Crime No.604 of 2017, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant purchased a vacant site to the extent of 10 cents from the 1st petitioner on 24.04.2015 by way of registered sale deed in Doc No.1519/2015 in his name and Doc No.3445/2015 on 09.07.2015 in his wife's name, totally for a sum of Rs.13,10,000/-. Thereafter, at the time of verification, he came to know that the father of the first petitioner had already been sold the said land in the year 1988 itself, to one Pankajammal through registered sale deed No.1504/1988. It is further alleged that by showing the fabricated partition deed, the petitioners are said to have cheated the defacto complainant. When the defacto complainant asked the petitioners to return the money, they threatened him and abused by using filthy language. Hence, the case has been registered against the petitioners for the above said crime.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have not committed any offence as alleged by the prosecution and they are no way connected with the alleged occurrence. He further submitted that the petitioners have been falsely implicated in this case. Hence, he prays for anticipatory bail to the petitioners.



4. The learned Government Advocate (Criminal Side) appearing for the respondent on instructions, would submit that the investigation is going on.

5. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, the petitioners herein sold out the property to the defacto complainant and received a sum of Rs.13,10,000/-. Further, the said sale deeds were registered in Doc.Nos.3445/2015 and 1519/2015. Subsequently, on verification, it came to the knowledge of the defacto complainant that the same property was already sold by the father of the first petitioner in favour of one Pankajammal, which is also registered in Doc.No.1504/1988. So, whether the petitioners are having the dishonest intention or not, have to be identified only at the time of trial. Moreover, the evidence to be collected for completing the investigation in this case are all in the form of registered documents. So, custodial interrogation of the petitioners may not be necessary for completing the investigation. Hence, 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Rajapalayam, on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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) the petitioners shall report before the respondent police daily at 10.00 a.m., until further orders;

(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(iii) the petitioners shall not abscond either during investigation or trial;

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners shall stand automatically cancelled and 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/-
14/02/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, RAJAPALAYAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.P.KRISHNASAMY Advocate SR.No.2462

ORDER

IN

CRL OP (MD) No.2257 of 2018

Date :14/02/2018

MKV-CM-SAR 1/20.2.2018/3P-6C