



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

Thursday, the Fourth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.18047 of 2017

1 ESAKKIMUTHU @ MOOKANDI

2 PACKIYARAJ

... PETITIONERS/ACCUSED Nos.1&7

Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION,
THOOTHUKUDI DISTRICT
(CRIME NO. 145 OF 2017)

2 MUTHAMMAL @ PAPATHIYAMMAL

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.NIRANJAN S. KUMAR, Advocate

For Respondent-1 : MR.K.S.DURAIPANDIAN, Additional Public Prosecutor

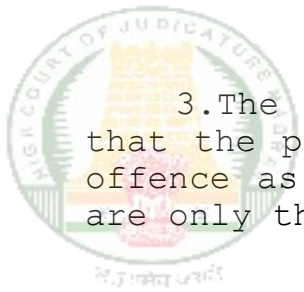
For Respondent-2 : No Appearance

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

ORDER : The Court Made the following order :-

The petitioners / A-1 and A-7, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 406, 467, 468, 471 and 420 of IPC in Crime No.145 of 2017 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that vide gift deed dated 25.11.1974 the de facto complainant got the properties in Survey Nos.1366/1B, 1366/3B, 1181/4 and 705/1 of Chekkarakudi Village and she had been enjoying the same without any hindrance. While being so, the accused persons conspired together and created a forged power deed in the name of the 3rd accused and sold the properties to the 6th accused vide Document No.2922 dated 13.06.2012. Hence, the present complaint has been lodged.



3.The learned counsel appearing for the petitioners submitted that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. Further, these petitioners are only the attesting witnesses in the alleged forged documents.

4.The learned Additional Public Prosecutor submitted that these petitioners have arranged the person, who purchased the property and they are not holding any proper title to the property and the investigation is pending.

5.Considering the submissions made on either side, it reveals the fact that the case has been registered against the petitioners for the offences punishable under Sections 406, 467, 468, 471 and 420 of IPC. The submission made on either side makes it clear that the evidence to be collected for completing the investigation is in the form of registered documents which are in possession of other accused in this case. Whether the petitioners have intention to commit the offence or not has to be identified only during the time of trial and nothing is going to be recovered from these petitioners.

6.Taking all the above said aspects into consideration and having regard to the nature of offence, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:-

(i) The petitioners are granted anticipatory bail in the event of their arrest or on their surrender before the Learned Judicial Magistrate No.I, Thoothukudi on or before 18.01.2018, failing which, the petition shall stand dismissed automatically.

(ii)On such arrest or surrender, the petitioners are ordered to be enlarged on bail on executing a bond for Rs.25,000/-each with two sureties for a like sum each to the satisfaction of the Learned Judicial Magistrate No.I, Thoothukudi.

(iii) The petitioners are directed to appear before the respondent / police daily at 10.00 a.m. for a period of one month.

iv) The petitioners shall make themselves available for interrogation as and when required by the investigation officer.

(v) 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 themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs State of Kerala** [(2005) AIR SCW 5560].

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sd/-
04/01/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, THOOTHUKUDI
- 2 THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT
- 3 THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.NIRANJAN S. KUMAR Advocate SR.No.222

ORDER
IN
CRL OP(MD) No.18047 of 2017
Date :04/01/2018

PK/RR/SAR-4/08.01.2018 : 3P/6C