



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

Friday, the Sixteenth day of November Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.19495 of 2018

1 PUSHPAM
2 SRIDHAR
3 MALARVIZHI
4 KANNAN @ MANIMUTHU KANNAN
5 PALANIAMMAL
6 KARUPPA THEVAR

... PETITIONERS/
ACCUSED RANK NOT KNOWN

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL WING,
DISTRICT CRIME BRANCH,
THENI DISTRICT.
CRIME NO.45 OF 2018

... RESPONDENT / COMPLAINANT

S.THANGAMANI

... INTERVENING PETITIONER/
DEFACTO COMPLAINANT

For Petitioners: Mr.R.SURIYA NARAYANAN Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl.Side)

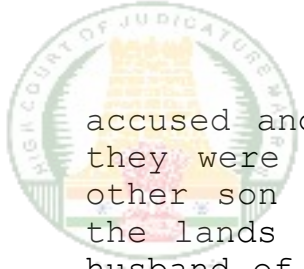
For Intervenor : Mr.J.LAWRANCE, Advocate

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

ORDER : The Court Made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 468, 471 & 109 of IPC in Cr.No.45 of 2018 seek anticipatory bail.

2.The petitioners herein are the purchasers and subsequent purchasers of the land from the defacto complainant and her son. The defacto complainant members having 63 cents on the southern side of the S.No.613/2 in Markaiyankottai Village, Theni District. Out of which 21 cents was sold by the defacto complainant to the first



accused and another 21 cents was sold by his son Ravi to A1. And they were left with 21 cents which belonged to Malarmannan, the other son of the defacto complainant. Thereafter, A1 and A2 sold the lands of 1 acre 70 cents to A3 & A5, A4 & A6 are the son and husband of A5. The allegation is that the schedule of the properties shows that Malarmannan's property is on the western side, Ravi's property and on the eastern side of defacto complainant's property. And also produced the FMB sketch, certificate by the Village Administrative Officer.

3.It is further submitted that the third accused had filed a civil suit in O.S.No.118 of 2018 before the District Munsif, Uthamapalayam. On 05.07.2018 for peaceful possession and enjoyment against the said Malarmannan. As a counter blast to it, this complaint has been lodged by the mother of the Malarmannan on 25.10.2018.

4.The learned Government Advocate (Crl. Side) submitted that Civil case is pending between the parties and investigation is in the initial stage. The counsel for the defacto complainant submits that due to contingency of Malarmannan, his mother lodges the above complaint.

5.The contention of the defacto complainant is that the schedule of the properties have been deliberately wrongly shown for the purpose of annexing the property of Malarmannan the lands of the two sons are adjacent to each other, side by side and not as shown in the sale deed of the accused. Further by creating forged documents they have encumbered the property of the petitioner and this has been done with the intention to grab their property.

6.Considering the rival submissions, perusal of documental materials produced, it is seen the documents are already available with the defacto complainant and the petitioners having no access to tamper with these documents, these documents have to be gone through in detail along with the revenue records, with the help of the surveyor. The defacto complainant giving criminal colour to the civil dispute. Considering the same, this Court is 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 their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Uthamapalayam, Theni District, 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 said Magistrate, on further condition that:

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

[b] the petitioners shall report before the respondent police as and when required for interrogation.

[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 229-A IPC.

sd/-

16/11/2018

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

TO

1. THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM,
THENI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL WING,
DISTRICT CRIME BRANCH, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.R.SURIYA NARAYANAN Advocate SR.No.21698

ORDER

IN

CRL OP(MD) No.19495 of 2018

Date :16/11/2018

MS/VR-MMS/SAR-4/22.11.2018/3P.6C