



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

Wednesday, the Third day of October Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) No.14990 of 2018

RAMKUMAR RAJA

... PETITIONER / ACCUSED NO.6

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THOOTHUKUDI DISTRICT.
(CR.NO.13/2018)

... RESPONDENT / COMPLAINANT

E.THANGASAMY

... PETITIONER/INTERVENER/DE-FACTO COMPLAINANT

For Petitioner : M/S.M.VEILKANI RAJU Advocate

For Respondent : MR.V.NEELAKANDAN, Additional Public Prosecutor

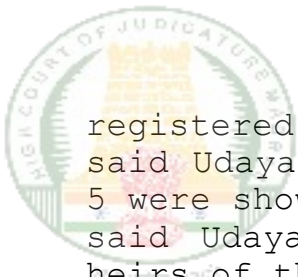
For Intervener : MR.K.ESSAKI, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 468, 471 and 420 I.P.C, in Crime No.13 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant, the petitioner and other legal heirs were obtained some properties from their father in the year 1960 through the registered partition deed and the same was registered in Document No.27/1960. In the year 1985, some of the properties were gifted to the first accused father namely Udayakumar Raja in this case and the same was registered with the Sub Registrar Office, Ettaiyapuram in Document No.63 /1985, 64/1985 and 65/1985 respectively. Thereafter, the father of the petitioner expired on 12.10.1985 and after that all the family members were orally partitioned the property. As per the oral partition, the father of the first accused has to return the said



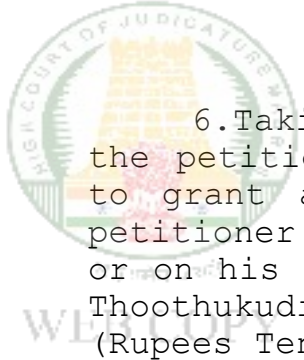
registered property to the defacto complainant. On 03.08.2006, the said Udayakumar Raja also expired. Thereafter, the accused Nos.1 to 5 were shown a Will dated 05.05.2006 as if which was executed by the said Udayakumar Raja. The said Will was fabricated by the legal heirs of the said Udayakumar Raja. Hence, the complaint.

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3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged in the F.I.R. The defacto complainant filed a suit before the District Court, Thoothukudi in O.S.No.9 of 2018 against the accused nos. 1 to 5. While the civil litigation is pending, the defacto complainant lodged the present complaint. While on enquiry, the respondent issued a summon to the petitioner. On receipt of the summon, the petitioner also appeared before the respondent and gave a detailed written explanation. Hence, he prays for anticipatory bail to the petitioner.

4.The learned counsel appearing for the defacto complainant would submit that in the year 1985, the petitioner's father without any legal basis executed a gift deed to his son, born on to his 3rd wife, Sampath Udayakumar regarding a portion of 2nd schedule which was allotted to the petitioner in the partition deed No.27/1960. The above said gift deed never accepted and acted upon. In the year 1988, there was a oral partition among the legal heirs of the petitioner's father regarding the remaining portion, which he got after encumbering and alienating the shares allotted in the partition deed No.27/1960. He further submitted that in the year 2016, the first accused executed a gift deed in favour of her husband viz., second accused regarding the properties which belonged to the defacto complainant and which was cancelled in the year 1988 in oral partition by a forged will, suppressing all the earlier registered and oral partition. Hence, the defacto complainant came forward with the complaint to the respondent police. The petitioner herein never appeared before the respondent police after receiving the summon. The accused nos. 3, 4 and 5 appeared before the respondent police and gave statements that the father of accused nos. 3 and 4 and husband of 5th accused, never executed any Will. He further submitted that the petitioner herein sold the property of the defacto complainant, which was allotted to him and the intervener filed a suit in O.S.No.91 of 2010 on the file of the II Additional District Court, Tuticorin and that suit was decreed. The petitioner again sold the property of the defacto complainant which was allotted to him and filed a suit in O.S.No.60 of 2016 before the II Additional District Court, Tuticorin, which is pending. He further submitted that the petitioner suppressed all the facts and filed this petition for seeking anticipatory bail. Hence, he strongly oppose the grant of anticipatory bail to the petitioner.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that the investigation is pending.



6. Taking note of all these aspects, custodial interrogation of the petitioner is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.III, Thoothukudi and on his executing 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 learned Magistrate concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.30 a.m for a period of four weeks and thereafter as and when required for interrogation. The petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C. scrupulously.

7. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
03/10/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.III,
THOOTHUKUDI.
- 2 -DO- THROUGH THE CHIEF
JUDICIAL MAGISTRATE, THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.VEILKANI RAJU Advocate SR.No.18800
+1. C.C. to M/S.K.ESAKKI, Advocate SR.No. 18826

ORDER
IN
CRL OP(MD) No.14990 of 2018
Date :03/10/2018

JM/PN/SAR 2/16.10.2018/3P/7C