



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

Wednesday, the Fourteenth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20147 of 2018

1 K.RUKMANI
2 R.KALAI AZHAGAN
3 MANI BHARATHI
4 S.RAVI
5 VIJAYANANTH

... PETITIONERS / ACCUSED 1 TO 5

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.
CRIME NO.493/2018

... RESPONDENT / COMPLAINANT

POMMURAJ

... PETITIONER/INTERVENER

For Petitioners : MR.D.VENKATESH Advocate

For Respondent : Govt. Advocate (Crl. Side)

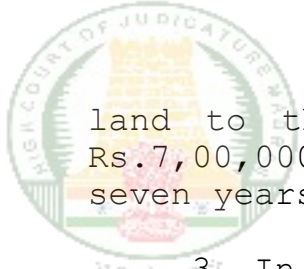
For Intervener : MR.S.SUNDARAPANDIAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 120-B, 465, 468, 294(b), 323 and 506(ii) IPC in Crime No.493 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioner had taken Cardamom Garden on lease in Chakkupallam Village, Idukki District, Kerala State. Initially, this land was given by K.S.Ramamoorthy, who was a lessee through the lease deed executed by Cardamom Settlement Officer, to the defacto complainant. Thereafter, the defacto complainant got right over the Cardamom garden from the said K.S.Ramamoorthy. Thereafter, the defacto complainant had given the



land to the petitioner for the purpose of lease on payment of Rs.7,00,000/- (Rupees Seven Lakhs only) per annum for a period of seven years.

3. In the mean while, there was a due of Rs.23,00,000/- (Rupees Twenty Three Lakhs only) to the defacto complainant. Further, on 27.01.2016 the petitioners created a forged document as if the defacto complainant sold the said land to the first petitioner by receiving a sum of Rs.43,00,000/- (Rupees Forty Three Lakhs only). The second petitioner is the husband of the first petitioner, the third and fourth petitioners are the witnesses to the deed and the fifth petitioner is the document writer.

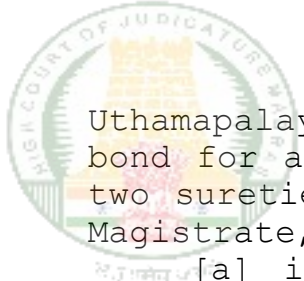
4. The learned counsel for the petitioners submitted that the occurrence took place on 25.09.2018, but a complaint was lodged by the defacto complainant on 25.10.2018. Further, it is submitted that in this regard the defacto complainant filed a Civil Suit in O.S.No.118 of 2017 before the Court of Munsif, Kattappana, Kerala State, claiming right over the property in dispute, wherein he stated that when borrowed amount from the petitioners 1 and 2 as a security, he signed in the blank papers, which has been used for preparation of the mutation deed.

5. In the said case, interlocutory application has also been filed and the same was dismissed. Thereafter, the defacto complainant had not preferred any appeal and the said order has become final as on date. But in the complaint, the defacto complainant submitted that since the petitioners have created forged document, the defacto complainant has taken different stand in different forum. The petitioners have also preferred a complaint against the defacto complainant as if he threatened the petitioners. The same was registered in Crime No.484 of 2018 before the Kumily Police Station, Kerala State.

6. The counsel appearing for the intervenor submitted that the defacto complainant had given the land to the first petitioner on lease. But the first petitioner did not pay a regular lease amount. Thereafter, the petitioners had created a forged document as if the defacto complainant sold the said land to the first petitioner by receiving a sum of Rs.43,00,000/- (Rupees Forty Three Lakhs only). He further submitted that the second petitioner is a criminal offender, who is having the habit of committing offence of this nature.

7. The learned Government Advocate (Crl.side) submitted that since the accused are absconding, no investigation was carried out.

8. Considering the submissions of the counsel on either side and perused the materials, 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, 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 1 and 2 shall report before the respondent police daily at 10.00 am, until further orders. The petitioners 3 to 5 shall report before the respondent police daily at 10.00 am for a period of two weeks and thereafter 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/-

14/11/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
UTHAMAPALAYAM.

2 -DO- THROUGH THE CHIEF
JUDICIAL MAGISTRATE,
THENI DISTRICT.

3 THE INSPECTOR OF POLICE,
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.

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



+1. CC to M/S.D.VENKATESH Advocate SR.No. 21558
+1. C.C. to M/S.S.SUNDARAPANDIAN, Advocate SR.No. 21548

WEB COPY

ORDER

IN

CRL OP (MD) No.20147 of 2018

Date :14/11/2018

JM/VR MMS/SAR 4/20.11.2018/4P/7C