



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.15355 of 2018

1 SUGATHI @ BARSHIYA NIHAL

2 NIJAM BAIZAL

... PETITIONERS / ACCUSED NOS.1 AND 2

Vs

STATE REP. BY

THE INSPECTOR OF POLICE,

DISTRICT CRIME BRANCH,

THOOTHUKUDI DISTRICT.

(CR.NO.13 OF 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

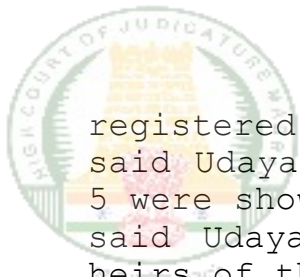
For Intervener : MR.K.ESSAKI, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend 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, seek 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 petitioners 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.

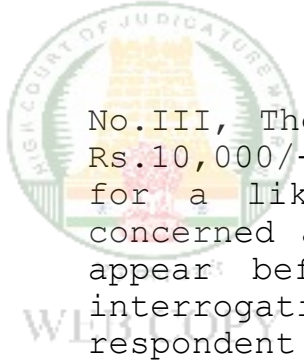
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3.The learned counsel appearing for the petitioners would submit that the petitioners had not committed any offence as alleged in the F.I.R. The defacto complainant filed a suit before the District Court, Thoothukudi in O.S.No.9 of 2018 against the 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, the second petitioner filed a direction petition and not to harass the petitioners in the civil matter. After hearing, this Court directed the respondent to file the status report. After that, the respondent hurried in manner and registered the FIR against the petitioners herein. While reading the FIR, the section stated in the FIR will not made out against the petitioners. Hence, he prays for anticipatory bail to the petitioners.

4.The learned counsel appearing for the defacto complainant would submit that in the year 1985, the petitioners' 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 defacto complainant 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 petitioners' 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 petitioners herein never appeared before the respondent police after receiving summons. 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 petitioners suppressed all the facts and filed this petition for seeking anticipatory bail. Hence, he strongly oppose the grant of anticipatory bail to the petitioners.

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 petitioners is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate



No.III, Thoothukudi and on their executing 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 learned Magistrate concerned and on further condition that the first petitioner shall appear before the respondent police as and when required for interrogation. The second 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 petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C. scrupulously.

7.The petitioners 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.

ORDER
IN
CRL OP(MD) No.15355 of 2018
Date :03/10/2018

JM/PN/SAR 2/15.10.2018/3P/5C