

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twelfth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.3748 of 2019

D.MALLIKARJUNA RAO

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE [RESPONDENT]
EDE II TEAM IV CENTRAL CRIME BRANCH,
CHENNAI. CR.NO.479 OF 2019.

For Petitioner : MR.I.SUBRAMANIAM SENIOR COUNSEL FOR
M/S.S.ELAMBHARATHI Advocate

For Respondent : M/S.S.THANKIRA, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The case of the prosecution is that the petitioner along with other accused persons is said to have created a forged family arrangement in the year 2002 and have alienated the properties to various third parties.

2. The specific case of the defacto complainant is that the signature of one Late D.Bhaskar Rao who is the grandfather of the defacto complainant has been forged in the family arrangement. This incident is said to have happened in the year 2002 and the complaint has been given in the year 2018.

3. Mr.I.Subramaniam, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner's brother Late D.Bhaskar Rao executed a registered Will dated 17.07.1995, by which, he had bequeathed his 1/4th undivided share in the property in favour of the petitioner's son. This Will was registered at Chirala, Andhra Pradesh in the year 1995. Subsequently, the Joint Development agreement was executed between the land owners and the Late D.Bhaskar Rao had also signed in the same and he had also executed a General Power of Attorney dated 14.09.1998. Subsequently, there was also a family settlement dated 07.09.2002 between the family members.

4. The learned Senior Counsel further submitted that even as per the complaint, the incident is said to have taken place between 07.09.2002 to 31.07.2005. However, the defacto complainant has chosen to give a complaint dated 14.11.2018 and the respondent police even without conducting the preliminary enquiry have proceeded to register

an FIR on the same day in spite of the fact that there was enormous delay in giving the complaint.

5. The learned Senior Counsel has also submitted that the petitioner is aged about 72 years and he is willing to send the family arrangement dated 07.09.2002 to a Forensic expert for the purpose of proving whether the signature found therein is the actual signature of Late D.Bhaskar Rao or it was a forged signature.

6. The learned Government Advocate submitted that the investigation is pending and all the relevant documents will have to be send for expert opinion in order to identify the signature found in the family arrangement and see if the signature of Late D.Bhaskar Rao has been forged.

7. Taking into consideration the facts and circumstances of the case and also of the fact that there was enormous delay in giving the complaint and also that the transaction which is said to have taken place in the year 2002 is being questioned in the year 2012 by the defacto complainant, by questioning the signatures of his grandfather found therein to be forged signatures and the respondent police even without conducting the preliminary enquiry proceeded into registering an FIR in this case, this Court is inclined to grant anticipatory bail to the petitioner subject to certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special CCB & CBCID Court, Egmore, Chennai - 600 008, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police daily on every Monday at 10.30 a.m. until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 229A IPC.

-sd/-
12/02/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL CCB & CBCID COURT,
EGMORE, CHENNAI-600 008.

2 THE INSPECTOR OF POLICE
EDE II TEAM IV CENTRAL CRIME BRANCH,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.S.ELAMBHARATHI Advocate on payment of necessary charges in SR.NO. 3203

CRL OP.3748/2019

Date :12/02/2019

MLT-15/02/2019

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