



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

Monday, the Fifteenth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5134 of 2019

1 MUTHUSAMY
2 RAJU

... PETITIONERS / ACCUSED
Nos.1 and 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ARAVAYAL POLICE STATION
SIVAGANGAI DISTRICT.
Crime No.31 of 2019

... RESPONDENT/ COMPLAINANT

For Petitioners : Mr.S.M.SANJAY Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

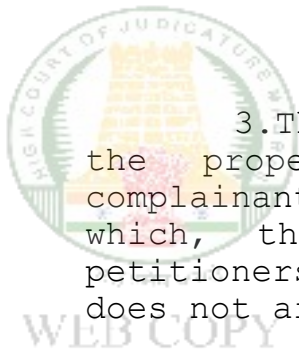
For Intervenor : Mr.R.MURUGAN Advocate

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 alleged offences under Sections 467, 468 and 420 IPC, in Crime No.31 of 2019, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners and the defacto complainant are brothers. Their father namely Karuppaiah executed a settlement deed in favour of the defacto complainant, who is the second son of the said Karuppaiah. Thereafter, the defacto complainant obtained a loan from Punjab National Bank, while such being the position, his father died in the year 2012. After death of the petitioner's father, they forged the signature of their mother, as if the mother executed the ¼ share in favour of the petitioners. Thereby, the defacto complainant lodged a complaint before the respondent police.



3.The learned counsel for the petitioners would submit that the property belongs to the petitioners and the defacto complainant's father. There is no partition in between them, in which, their mother's share was executed in favour of the petitioners. Since it is purely a civil dispute and a criminal case does not arise.

4.The learned counsel for the intervenor would submit that the defacto complainant came to know that the property was registered in favour of the petitioners vide document No.5177/2011, dated 15.12.2011. Thereby, the defacto complainant lodged a complaint before the respondent police.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the property belongs to one Karuppaiah, in which the petitioners and the defacto complainant were shared in the property. However, the defacto complainant lodged a complaint, as if the his father settled the property in favour of him in the year 2004.

6.Considering the facts and circumstances of this case and on perusal of the First Information Report discloses that it appears to be civil dispute and it has to be decided only a competent civil court. I am inclined to grant anticipatory bail to the petitioners. 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, Devakottai, 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 respondent police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners and the sureties shall affix his photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure their identity;

(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]; and;



(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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sd/-
15/04/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE,
DEVAKOTTAI.
 - 2.THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
 - 3.THE INSPECTOR OF POLICE,
ARAVAYAL POLICE STATION
SIVAGANGAI DISTRICT.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.S.M.SANJAY Advocate SR.No.6938

ORDER
IN
CRL OP(MD) No.5134 of 2019
Date :15/04/2019

TK/MMS/SAR-4/23.04.2019/3P/6C