



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

Wednesday, the Second day of January Two Thousand Nineteen

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PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

**CRL OP(MD) No.17314 of 2018**

1.T. ATHISAYARAJA  
2 A. DHANALAKSHMI  
3 A. THINAKAR

... PETITIONERS / ACCUSED NOS.1 TO 3

Vs

STATE REPRESENTED BY  
THE INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH,  
NAGERCOIL,  
KANYAKUMARI DISTRICT,  
(CRIME NO.28/2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.A.THIRUVUDI KUMAR Advocate

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

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 punishable under Sections 468, 471 and 420 IPC in Crime No.28 of 2018 seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, namely, P.Kanagaraj, who is the owner of the property in R.S.No.813/1B in Aralvoimozhi Therkkku Village measuring 4 acres and 25 cents stood in the name of his wife. The said property has been gifted by the maternal uncle of his wife vide Document No.757, dated 12.05.1978. Since the defacto complainant's wife was not well, the property was not properly taken care off. On 15.05.2018, when the defacto complainant has applied for patta for the said property, it revealed that the patta No.4629 stood in the name of the second petitioner herein. On further enquiry, it is found that the first petitioner herein had executed a settlement deed in favour of the second petitioner vide Document No.1298/2009 dated 21.07.2009 on the file of the Sub Registrar, Sathankulam. The third petitioner had signed as an attesting witness to the said settlement deed. Hence,



the accused had jointly together grabbed the property of the defacto complainant's wife by creating forged documents.

3.The learned counsel for the petitioners would submit that the first petitioner had executed a settlement deed as regards four schedule of property vide document No.1298/2009 dated 21.07.2009 on the file of the Sub Registrar, Sattankulam and inadvertently shown the property of the defacto complainant as the third scheduled property. Coming to know about the mistake, the first petitioner had immediately filed rectification deed by letter dated 04.09.2018, but the same was returned by the Registration Authorities on the ground that the case comes under jurisdiction of another Sub-Registrar Office. As against which the petitioners 1 and 2 have filed W.P.(MD)No.19978 of 2018 before this Court, seeking Writ of Certiorarified Mandamus to quash the order of the Sub-Registrar, Sattankulam, dated 05.09.2018 and to receive the rectification deed dated 04.09.2018. It was admitted by this Court and notice was ordered to the respondents therein.

4.The learned Additional Public Prosecutor for the respondent police opposes to grant anticipatory bail to the petitioners.

5.Taking into consideration the facts of the case and the submissions made by learned counsel, this Court is inclined to grant anticipatory bail to the petitioners.

6.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 No.I, Nagercoil, 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 said Magistrate, on further condition that:

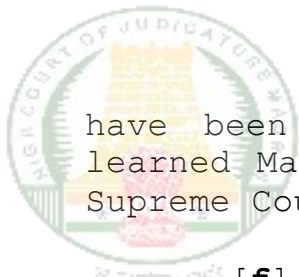
**[a]** if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

**[b]** the petitioners 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-  
02/01/2019

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

TO

- 1.THE JUDICIAL MAGISTRATE NO.I,  
NAGERCOIL.
- 2.THE CHIEF JUDICAIL MAGISTRATE,  
KANYAKUMAR DISTRICT AT NAGERCOIL.
- 3.THE INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH,  
NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1. CC to MR.A.THIRUVDI KUMAR Advocate SR.No.46

ORDER  
IN  
CRL OP(MD) No.17314 of 2018  
Date :02/01/2019

AE/PN/SAR1/07.01.2019/3P/6C