



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

Date : 30/08/2019

PRESENT

The Hon'ble Mr. Justice P. RAJAMANICKAM

CRL OP (MD) . No.11172 of 2019

1.A.Nagaraj

2.P.Eswarasamy @ Karthick

3.P.Ramesh

... Petitioners

Vs

The Inspector of Police,
Palani Taluk Police Station,
Neikarapatty, Palani Taluk,
Dindigul District,
(Crime No. 264 of 2019).

... Respondents

Dhandapani

...Petitioner/Intervener

For Petitioners : M/s.M.Ramu,
Advocate.

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)

For Intervener : Mr.A.Karthik
Advocate

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

PRAYER :-

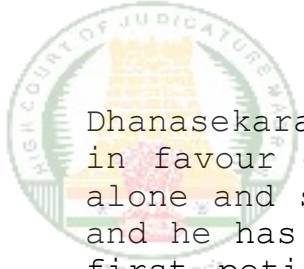
For Anticipatory Bail in Crime No. 264 of 2019 on the file of
the Respondent Police.

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 447 and
379(NP) of IPC in crime No.264 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has
submitted that the land and the bricks chamber which are under
dispute originally belonged to one Dhanasekaran by virtue of the
sale deed dated 11.09.2008. He further submitted that since the said

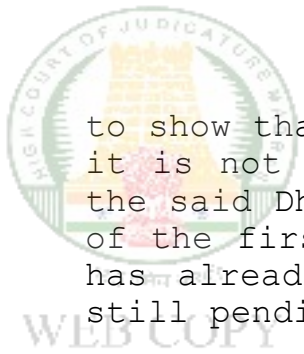


Dhanasekaran is working in abroad, he executed a power of attorney in favour of his sister namely Renuka to manage the bricks chamber alone and subsequently, he has cancelled the said power of attorney and he has taken over the said bricks chamber and leased out to the first petitioner under the registered lease deed dated 08.02.2018 and from that date onwards, the first petitioner is running the said bricks chamber. He further submitted that the said Renuka even after cancellation of the power of attorney, has executed a lease deed in favour of the defacto complainant in respect of the land including bricks chamber and based on the same, at the instigation of the said Renuka, the defacto complainant tried to interfere with the possession of the first petitioner and hence, the first petitioner has filed a suit in O.S.No.50 of 2019 on the file of the Principal District Munsif, Palani seeking permanent injunction, but the District Munsif has issued only notice. He further submitted that taking advantage of the fact that the civil Court has not granted any injunction in favour of the first petitioner, the defacto complainant has lodged a false complaint as if the petitioners have criminally trespassed into the said land and committed theft of machineries which are being used in the bricks chamber. He further submitted that since the first petitioner is in lawful possession of the said bricks chamber, there is no question of trespass and also committing theft of machineries and therefore, he prayed to grant anticipatory bail to the petitioners.

4.Per contra, the learned counsel appearing for the intervener/defacto complainant has submitted that the defacto complainant is in lawful possession of the said land and bricks chamber, in pursuance of the lease agreement executed by the said Renuka, he has also obtained permission from the Pollution Control Board on 02.03.2015 and also got Registration Certificate from the Sales Tax Department and that itself would show that the defacto complainant is in possession of the aforesaid land. He further submitted that since the first petitioner has not proved prima facie case, the learned District Munsif has not granted any ad-interim injunction in favour of the first petitioner. He further submitted that since the first petitioner failed to get order from the civil Court, taking law in his hands with his henchmen had criminally trespassed into the aforesaid land and stolen the machineries and hence, he strongly opposed this petition.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police has adopted the arguments advanced by the learned Counsel appearing for the intervener/defacto complainant and she also opposed this petition.

6.Though the defacto complainant has claimed that he is in possession of the aforesaid property in pursuance of the lease agreement said to have been executed by one Renuka on 07.01.2015 and also produced permission issued by the Pollution Control Board on 02.03.2015 and Registration Certificate issued by the Sales Tax Department dated 01.07.2017, he has not produced any GST statement



to show that for the past four years, he is selling bricks. Further, it is not disputed that the land belonged to Dhanasekaran. Further the said Dhanasekaran had executed a registered lease deed in favour of the first petitioner on 08.02.2018. Further the first petitioner has already filed a suit before the Civil Court and the same is still pending.

7. Taking into consideration of the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioners by imposing certain conditions.

8. 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, Palani, Dindigul District, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required before the respondent police for interrogation .

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

(v) 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].

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

sd/-
30/08/2019

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TO
1 THE JUDICIAL MAGISTRATE,
PALANI, DINDIGUL DISTRICT.

2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION,
NEIKARAPATTY, PALANI TALUK,
DINDIGUL DISTRICT.

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

+1 CC to M/s.A.KARTHICK, Advocate (SR-14566[I] dated 03/09/2019)

+1 CC to M/s.M.RAMU, Advocate (SR-14621[I] dated 03/09/2019)

ORDER

IN

CRL OP (MD) No.11172 of 2019

Date :30/08/2019

VSG

ES/PN/SAR 3/04.09.2019/4P/7C