



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/09/2019

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP (MD) . No.12302 of 2019

1. Pandian,
2. Kathiravan,
3. Raja Lakshmi, ... Petitioners/Accused Nos.1 to 3

Vs

The State Rep. by
The Inspector of Police,
District Crime Branch, Thoothukudi,
Thoothukudi District
(Crime No.25 of 2019). ... Respondent/Complainant

For Petitioner : M/s. S. Balasubramanian,
Advocate.
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)
For Intervenor : Mr.C.Susikumar

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

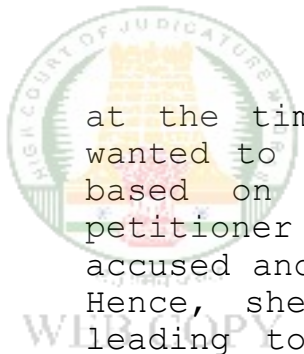
PRAYER :-

for anticipatory bail in Crime No.25 of 2019 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners are arrayed as A1 to A3 in Crime No.25 of 2019, on the file of the District Crime Branch, Thoothukudi, for the alleged offences punishable under sections 120(B), 406 and 506(ii) of I.P.C. They seek anticipatory bail.

2.The defacto complainant is one Subaramani, her allegation is that she borrowed a sum of Rs.14,00,000/- from the first accused Pandian way back in the year 2012. She had affixed her signature and also executed a power of attorney in favour of Pandian



at the time of availing the said loan. The defacto complainant wanted to clear the same in the year 2018. She came to know that based on the power of attorney, dated 09.10.2012, the first petitioner had sold the part of the land in favour of the second accused and another part in favour of the third accused Rajalakshmi. Hence, she lodged information before the District Crime Branch, leading to registration of the aforesaid crime and apprehending arrest, this Criminal Original Petition has been filed by the accused.

3.The learned counsel appearing for the petitioners submitted that A2 and A3 are only purchasers and that they have filed civil suit in O.S.Nos.144 of 2018 and 145 of 2018 before the District Munsif Court, Kovilpatti against the defacto complainant herein. He would also point out that the complaint filed by the defacto complainant herein before the Anti Land Grabbing Special Cell, Thoothukudi was enquired into and closed as early as on 04.08.2018. He would also submit that the defacto complainant had admittedly executed a registered power of attorney in favour of the first petitioner herein. Therefore, she cannot now make U-turn and impeach its validity.

4.I have also heard the learned counsel appearing for the defacto complainant and also the learned Government Advocate (Crl. side) for the respondent.

5.The total extent of land which is the subject matter of the power of attorney is about 93 acres. The defacto complainant would allege that even in the year 2012 it was worth about one crore of rupees and the current value would exceed four crores of rupees. Considering the vast extent of land, which is the subject matter of the transactions, the case projected by the defacto complainant appears to be probable. I am not impressed by the submissions that the present FIR is not maintainable, merely because the Anti Land Grabbing Special Cell, Thoothukudi closed her complaint earlier. The specific allegation of the defacto complainant is that even without holding an enquiry, Anti Land Grabbing Special Cell, Thoothukudi, closed her complaint.

6.The third petitioner Rajalakshmi is only a subsequent purchaser. Therefore, I am of the view that she is entitled to the relief of anticipatory bail. But it cannot be granted as far as second petitioner Kathiravan is concerned. This is because Kathiravan is none other than the son of Pandian. It is true that the suits have been filed by A2 as well as A3. But a given issue can have a civil profile and also a criminal dimension. Hence, mere pendency of the suits at the instance of the accused that too, for the mere relief of permanent injunction, cannot come within the way of the police from registering the First Information Report. The allegation is that the blank signed papers given by the defacto complainant have been misused and based on the same, transactions



have been concluded. Therefore, even while granting anticipatory bail to the third petitioner, I am of the view that this Criminal Original Petition has to be dismissed as far as the first and second petitioners are concerned.

7. Taking note of the facts and circumstances of the case, I am inclined to grant anticipatory bail to the third petitioner with certain conditions. Accordingly, the third petitioner is ordered to be released on bail in the event of arrest or on her appearance before the learned Judicial Magistrate No.III, Tuticorin, and on her executing 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 learned Magistrate concerned and on further condition that the third petitioner shall appear before the respondent police as and when required for interrogation. The third petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

8. The third petitioner 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/-
12/09/2019

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

TO

1. Judicial Magistrate No.III, Tuticorin.
2. Do-Through The Chief Judicial Magistrate,
Tuticorin District.
3. The Inspector of Police,
District Crime Branch, Thoothukudi,
Thoothukudi District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.S.BALASUBRAMANIAN, Advocate Sr. No. 15147

ORDER IN
CRL OP (MD) No.12302 of 2019
Date : 09/09/2019

TR/PN/SAR-II (17.09.2019) 3P 6C