

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2020

Coram

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.5182 of 2020

1. Paneer Selvam
2. Madhavi

... Petitioners

-vs

State Rep. By
The Inspector of Police,
Crime Branch CID,
Thiruvannamalai Unit,
Thiruvannamalai District.
Crime.No.01 of 2020.

... Respondent

Prayer: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.01 of 2020 on the file of the respondent Police.

For Petitioners : M/s.Aruna Elango

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

For Intervenor : Mr.Govi Ganeshan

ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences publishable under Sections 120B, 420, 385, 506(i) IPC, in Crime No.1 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant is that the petitioners suppressing the encumbrance and pendency of litigations sold the property to him on 17.08.2012.

3. The learned counsel for the petitioners would submit that the petitioners are Senior Citizen and doing business. They have purchased the property from one Nedunchezhiyan during the year

2009 and they were in continuous possession of the property from the day of purchase. Thereafter, they have sold the property to the de-facto complainant on 17.08.2012. He would further submit that the de-facto complainant, who is a reputed businessman and he had after perusing all the documents and after scrutiny of documents and getting a legal opinion had purchased the property. Based on the said legal opinion, he has also obtained loan from financial institutions. He also submit that the petitioners are innocent purchasers and they were not aware of the litigations in respect of the property. It is the ancestral property of their seller and he was in possession of the property for several years and after verifying the documents they purchased the property and it was in their possession for about 3 years. He would further submit that even the Encumbrance Certificate did not reflect about the pendency of the suit or dispute between Nedunchezian and his sister Radha. That being so, the petitioners have been unnecessarily harassed by the de-facto complainant.

4. The learned Additional Public Prosecutor would submit that the said property originally belongs to the family members of Nedunchezian and he has sold the property to the petitioners and later it was found that litigations were pending between Nedunchehizan and his sister Radha.

5. The learned counsel appearing for the intervenor vehemently oppose stating that the property in dispute is the ancestral property and suppressing the pendency of the suit and injunction order granted by the Civil Court, the petitioners colluded with the other accused and have purchased the property and later they have sold the property to the de-facto complainant suppressing the litigations and encumbrance.

6. At this juncture, the learned counsel for the petitioners would submit that only after selling the property to the defacto complainant the petitioners came to know that a suit has been filed by Radha in O.S. No.103 of 1996, but on scrutiny it was found that the property is not covered in the suit. He also submit that even in the suit, there was only an injunction order restraining the transfer of a bus bearing Registration No. TN-55-1399. He would submit that the entire case is borne out by documents and the petitioners have purchased the property by paying consideration and further they have been unnecessarily harassed by Radha and the defacto complainant. He has also stated that the petitioners are prepared to appear before the respondent for any kind of enquiry. Hence, he prays for grant of anticipatory bail to the petitioners.

7. Heard the learned counsels and perused the entire materials on record.

8. Taking into consideration the facts and submissions made by the learned Counsels, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions;

9. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned **Judicial Magistrate No.I, Thiruvannamalai** on condition that the petitioners shall execute a separate 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 petitioners 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 first petitioner shall report before the respondent daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders and the second petitioner shall report before the respondent daily 10.30 a.m., for a period of one week and thereafter as and when required.

[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 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
10/09/2020

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 JUDICIAL MAGISTRATE,
NO.I, THIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CRIME BRANCH CID, THIRUVANNAMALAI UNIT,
THIRUVANNAMALAI DISTRICT.

CC to M/S.ARUNA ELANGO Advocate on payment of necessary charges

+1 CC to MR.GОВI GANESHAN Advocate on payment of necessary charges SR.NO.6232

CRL OP.5182/2020

Date:10/09/2020

GKS:25/09/2020

WEB COPY