IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5441 of 2020

Anthaiah Mekshmas ... Petitioner

Vs.

The State Represented by ... Respondent
The Inspector of Police
District Crime Branch,
Anti Land Grabbing Special Cell
Tiruvallur District.
Tiruvallur.
(Cr.No.13/2019)

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest in Crime No. 13 of 2019 pending investigation on the file of the respondent police.

For Petitioner : Mr.N.Sarvanan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

For Intervenor : Mr.B.Janakiram

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420 IPC altered into 464, 468, 471, 406, 420 IPC in Crime No.13 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that originally the petitioner and his father/1st accused fabricated mortgaged property with the defacto complainant for a sum of Rs.32,00,000/- and deposited the original title deed. Thereafter, they obtained the non transferable certificate as if the original document was lost. On the strength of non transferable certificate, the 1st accused settled the property in favour of his son, thereby cheated the defact complainant to the tune of Rs.32,00,000/-. Hence the complaint.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The learned counsel for the petitioner submitted that the petitioner is innocent and he is no way connected with the alleged offence. He further submitted that the 1st accused has cancelled the settlement deed executed in favour of the petitioner/2nd accused by a cancellation deed dated 25.07.2020 and registered as Document No.1338 of 2020 with the office of the Sub-Registrar, Sunguvarchathiram, Kancheepuram District. Hence, he seeks anticipatory bail to the petitioner.

4. The learned counsel for the de-facto complainant/intervenor would submit that the petitioner and his father received a sum of Rs.32,00,000/- by mortgaging their property and thereafter, the father of the petitioner executed a settlement deed in favour of his son and thereby cheated the de-fact complainant. Therefore, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned Additional Public Prosecutor appearing for the respondent.

6. It is seen from the records that the petitioner and his father, who is the 1st accused in this case, have approached this Court under Section 482 Cr.P.C and challenged the FIR in Crime No.13 of 2019 and it was adjourned for the reason that the anticipatory bail petition in Crl.O.P No.14437 of 2019 pending before this Court. Suppressing the above circumstances and also without even disclosing anything before this Court, on 03.07.202019, the learned counsel for the petitioners seek permission to withdraw the aforesaid petition and this Court ordered the same. Thereafter, the defacto complainant brought to the notice of this Court. On 19.06.2019, based on the said settlement, this Court granted interim direction to the petitioner on condition that the petitioner and the 1st accused shall pay a sum of Rs.32,00,000/- to the de-fact complainant. Since the petitioner and the 1st accused did not comply the earlier order, the said anticipatory bail petition was dismissed by this Court on 04.07.2019. Thereafter, the 1st accused has cancelled the settlement deed executed in favour of the petitioner/2nd accused by a cancellation deed dated 25.07.2020 and registered as Document No.1338 of 2020 with the office of the Sub-Registrar, Sunguvarchathiram, Kancheepuram District.

7. Considering the above facts and circumstances of the case and also the petitioner is a settlee and he has nothing to do with the crime as alleged by the de-facto complainant, this Court is not inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Tiruvallur, on condition that the petitioner shall execute a bond/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:

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

[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 petitioner shall report before the respondent police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-
28/07/2020

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.1,
TIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ANTI LAND GRBBING SPECIAL CELL,
TIRUVALLUR DISTRICT
TIRUVALLUR.

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

5 THE SUB-REGISTRAR,
SUNGUVARCHATHIRAM,
KANCHIPURAM DISTRICT.

CC to M/S. K. SELVAKUMARASWAMI Advocate on payment of necessary charges

+5 CC to MR.B.JANAKIRAM, Advocate on payment of necessary charges SR.NO.5793

CRL OP.5441/2020

Date :28/07/2020

TA-06/08/2020

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/