

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventeenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.5635 of 2020

1 R.MARUTHACHALAM
2 R. VISALAKSHI
3 SANJEEVEE
4 SARAVANAN
5 AMSAVENI

[PETITIONERS / ACCUSED]

Vs

1 STATE

[RESPONDENT]

REP BY THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH ,
ERODE DISTRICT
CRIME NO. 9/2019

For Petitioner : M/S. R.JAYAPRAKASH Advocate

For Respondent : MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR

For Intervener : MR.A.MUTHUMANI Advocate

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 offences punishable under Section 120-B, 420, 467, 468, 109 & 506(i) of IPC 1860, in Crime No.9 of 2019, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., K.P.Saravanan is that he had given a Power of Attorney to the first accused in the year 2003 which was registered as Document No.17/2003 dated 17.02.2003. While so, the de-facto complainant came to know that the petitioner and his wife were involved in land grabbing cases and before he could cancel the power, the first accused had by a sham sale deed dated 07.03.2017 transferred the property to his wife/A2 and when further investigation was done by the respondent police, it was found that the property was sold for lesser amount than the guideline value and when the de-facto complainant had questioned the accused, the accused along with his wife had threatened the de-facto complainant.

3. The learned counsel for the petitioners would submit that the de-facto complainant after receiving the entire consideration had executed the Power of Attorney dated 17.02.2003 which was registered as Document No.17/2003 on the file of SRO Thookanayakkanpalayam, later the first petitioner as a trader was keeping it to sell it for higher value. However, the de-facto complainant demanded extra money after increase in real estate market and threatened that he would cancel the Power of Attorney. In order to protect his interest, the petitioner had registered a sale deed in favour of his wife. He would reiterate that the petitioner has paid the entire consideration to the de-facto complainant.

4. The learned counsel for the intervenor would submit that without any life certificate being produced, the petitioners and SRO colluded in allowing the sale of the property based on Power of Attorney. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners

5. The learned Additional Public Prosecutor would submit that the Power of Attorney was executed by the de-facto complainant in the year 2003. Without insisting for the life certificate, the SRO had colluded with the first petitioner and helped him to transfer the property in favour of his wife.

6. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of thirty days from the date on which the order copy is made ready, before the learned Judicial Magistrate Court No.II, Erode, on condition that each of 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 Aadhaar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police, daily at 10.30 a.m., until further orders.

[c] the petitioners shall file an affidavit of undertaking with an encumbrance certificate of the property which is subject the matter of this dispute.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

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

-sd/-

17/03/2020

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,
COURT NO.II, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH ,
ERODE DISTRICT

+1 CC to M/S. R.JAYAPRAKASH Advocate on payment of necessary charges SR.NO. 5261

+1CC to M/S. MUTHUMANI Advocate on payment of necessary charges SR.NO. 5283

CRL OP.5635/2020

Date :17/03/2020

RD 22/05/2020