

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.OP.Nos.12019 & 13246 of 2020

1.Sugumar ... Petitioners in Crl.O.P.No.12019 of 2020
2.Suresh Kumar

G.Lambar Saravanan ... Petitioner in Crl.O.P.No.13246 of 2020

Vs.

The Inspector of Police, ... Respondent in Crl.O.P.No.12019 of 2020
District Crime Branch (DCB),
Villupuram District.
(Crime No.34 of 2019)

The Sub Inspector of Police, .Respondent in Crl.O.P.No.13246 of 2020
District Crime Branch (DCB),
Villupuram District.
(Crime No.34 of 2019)

Common Prayer: Criminal Original Petitions filed under Section 438 Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Crime No.34 of 2019 on the file of the respondent police.

In both Crl.O.P.Nos.

For Petitioners : Mr.V.Balamurugan

For Respondent : Mr.M.Mohammad Riyaz
Additional Public Prosecutor,

COMMON ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 468, 469, 471, 474, 506(2), r/w. 120(B) IPC, in Crime No.34 of 2019, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant, namely, Karthikeyan is that A1 Kaliyaperumal had created a sale
<https://hcservices.ecourts.gov.in/hcservices/>

agreement during the year 2012 and created a document as if A2 Lambar Saravanan is the lessee in respect of the property and A3 & A4 are the witnesses of the document. The defacto complainant sold the property to one Uma maheswari in the year 2017 and thereafter, the accused filed a suit based on the forged agreement. Hence the complaint.

3. The learned Counsel for the petitioners submitted that the petitioner/A2 is a cultivating tenant in respect of the property through his father and the petitioners had been in continuous possession and that without the knowledge of the petitioners, the defacto complainant sold the property to third parties and attempted to evict them by force. The petitioners filed a suit in O.S.No.89/2018 before the Subordinate Court, Tindivanam and while the suit is pending, the defacto complainant has given a false complaint as if the petitioners claim possession based on the forged sale agreement. He would further submit that the petitioners have no connection with A1 and that the petitioners are unnecessarily harassed and the case has been registered based on the directions from the Court. He would also submit that the defacto complainant, unable to evict them, had entered into a sham transaction with one Uma Maheswari. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the defacto complainant's father is the owner of the property and sold the same to Uma Maheswari in the year 2017 and based on the fabricated documents, the petitioners claim possession and filed a suit. Therefore, he opposed for grant of bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. 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, Vanur, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, 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 petitioners shall report before the respondent daily at 10.30 a.m. and thereafter every Monday at 10.30 a.m. until further orders.**

[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, these Criminal Original Petitions are ordered.

-sd/-

04/09/2020

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,
VANUR.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH (DCB),
VILLUPURAM DISTRICT.

5 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH (DCB),
VILLUPURAM DISTRICT.

+2 CC to M/S. V.BALAMURUGAN Advocate on payment of necessary
charges SR.NO.6159, 6160

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Date :04/09/2020