

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.12158 and 12163 of 2020

Mr.M.A. Baskaran,
S/o. Late Aathikesavan ...Petitioner in Crl.O.P.No.12158 of 2020

T.K.Poovannan
S/o.T.K.Krishna Moorthy ...Petitioner in Crl.O.P.No.12163 of 2020

Vs.

State rep. by the
Inspector of Police,
ALGSC, District Police Office,
Thiruvallur.
(Cr.No.22 of 2019) ... Respondent in both the Crl.O.Ps.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No. 22 of 2019 pending investigation on the file of the respondent police.

For Petitioners in both Crl.O.Ps. : Mr. A.R. Suresh

For Respondent in both Crl.O.Ps. : Mr. M. Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(The 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 419, 420, 465, 468, 471 of I.P.C, in Crime No. 22 of 2019, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Anthony Mary is that she was allotted with a plot measuring to an extent of 338 sq.ft in S.No.196/2, TNHB, Kakkalur Village, Thiruvallur Taluk by the Tamil Nadu Housing Board under lease cum sale agreement on 30.03.1994. The defacto complainant had made periodical payments and the property was registered in her name by sale deed dated 05.08.2020, registered as document No.12653 of 2008 on the file of S.R.O. Thiruvallur. The further allegation is that some persons by creating fabricated documents and impersonating as Antony Mary, sold the property to one Baskaran/petitioner in Crl.O.P.No.12158 of 2020. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the respondents are innocent and they have been falsely implicated

in this case. Insofar as the Baskaran / petitioner in Crl.O.P.No.12158 of 2020 is concerned, he had purchased the property through a valid registered sale deed on 09.04.2009 and the sale was registered as document No.3042 of 2009 after duly verifying the sale deed, allotment orders and the power of attorney deeds given by the defacto complainant Antony Mary. He would submit that the petitioner Baskaran had paid valuable sale consideration of Rs.2,26,460/- and thereafter, he had also mortgaged the property with Five Star Business Credits Limited on 06.01.2011. He would submit that right from the date of purchasing, the petitioner Baskaran was in absolute possession of the property. He would further submit since some other persons interfered with the possession, the petitioner Baskaran had also filed a suit for declaration of his title and also for consequential relief of injunction in O.S.No.47 of 2020 before the Subordinate Court, Tiruvallur and the Hon'ble Court was also pleased to grant injunction in favour of the petitioner Baskaran.

3.1 The learned Counsel for the petitioners would submit that insofar as the petitioner T.K.Poovannan / petitioner in Crl.O.P.No.12163 of 2020 is concerned, he stood as a witness for the said sale deed other than that he has not committed any offence as alleged by the prosecution. He would further submit that the petitioners are prepared to appear before the respondent police for any kind of investigation. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the defacto complainant Anthony Mary was allotted with a plot by the Tamil Nadu Housing Board under lease cum sale agreement and the property was registered in the name of the defacto complainant on 05.08.2020. Thereafter, some persons by creating fabricated documents and impersonating as defacto complainant, sold the property to A5/M.A.Baskaran/petitioner in Crl.O.P.No.12158 for which, one T.K.Poovannan/petitioner in Cro.O.P.No.12163 stood as witness.

5. Taking into consideration, the facts and circumstances of the case and the fact that the Baskaran/petitioner in Crl.O.P.No.12158 of 2020 is in possession of the property, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered 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 Special Judge (Land Grabbing Cases) Thiruvallur, 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.

[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 appear before the respondent police daily at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

[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 229-A IPC.

With the above directions, these Criminal Original Petitions are ordered.

-sd/-

26/08/2020

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 SPECIAL JUDGE
LAND GRABBING CASES, THIRUVALLUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALGSC, DISTRICT POLICE OFFICE,
THIRUVALLUR.

+2 CC to M/S.A.R.SURESH Advocate on payment of necessary
charges sr nos.6046,4047

CRL OP.12158 and 12163/2020

Date :26/08/2020