

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12337 of 2020

1.Mohammed Halith, M/50 years,
S/o.Mohamed Esha,
4/215, Jawahar Street,
Ilayalur, Vadakarai Post,
Tharangambadi Taluk,
Nagapattinam District.

2.Mohammed Rafik @ Mohammed Rafi, M/65 years,
S/o.Mohammed Ibrahim,
4/67 Pallivsal Street,
Ilayalur, Vadakarai Post,
Tharangambadi Taluk,
Nagapattinam District.

3.Nijamuddeen M/53,
S/o.Mohammed Ali,
4/67 Pallivsal Street,
Ilayalur, Vadakarai Post,
Tharangambadi Taluk,
Nagapattinam District.

4.Sheik Alavudhen, M/48 years,
S/o.Abdhul Latheef,
4/167, Chinnah Melastreet,
Ilayalur, Vadakarai Post,
Tharangambadi Taluk,
Nagapattinam District.

... Petitioners/Accused 1 to 4

The State of Tamil Nadu represented by,
The Inspector of Police,
Sembanarkovil Town Police Station,
Negapattinam District.

(Crime No. 82 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest by the respondent police in Crime No. 82 of 2020 on the file of the respondent police.

For Petitioners : Mr.D.Kumaralingam
For Respondent : Mr.K.Prabakar
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 alleged offences punishable under Sections 294(b), 464, 323 and 506(ii) of IPC, in Crime No. 82 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution is that one Mohammed Saalik died intestate leaving behind vacant side to his wife viz., Mohammed Beevi, three sons and two daughters. Later, Mohammed Beevi along with her two daughters and two sons, had executed a release deed in favour of one of her son viz., Mohammed Farrok and Mohammed Farrok has sold the vacant site to the defacto complainant. Now, the petitioners are claiming title through a unregistered settlement deed said to have been executed by Mohammed Beevi and are now trying to disturb the possession of the defacto complainant and when it was questioned by the defacto complainant, they have assaulted the defacto complainant and have also given objection letter to the bank to dismiss from extending loan to the defacto complainant.

3 The learned counsel appearing for the petitioners would submit that the petitioner are innocent persons and a false complaint has been given against them. He would submit that the petitioners are Jamathars of the local Muslim Panchayat and that the mother of the vendor of the defacto complainant has executed a settlement deed in favour of the Jamath. Based on that, the petitioners are claiming right over the property for a public purpose. He would submit that the entire case of the prosecution has born out by the documents. Hence, he prays to grant. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the vendor of the defacto complainant one Mohammed Farrok was the owner of the property having acquired the property through a release deed from his mother Mohammed Beevi and that the petitioners are claiming title based on a unregistered sale deed in favour of the Jamath and disturbing the possession and also threatened the defacto complainant. Hence, he opposed to grant anticipatory 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 Court's normal functioning whichever is earlier, before the learned District Munsif cum Judicial Magistrate, Tharangampadi, on condition that each petitioner 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 petitioners shall report before the respondent police every day at 10.30 a.m., for a period of two weeks 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, this Criminal Original Petition is ordered.

-sd/-
17/08/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, THARANGAMPADI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
SEMBANARKOVIL TOWN POLICE STATION,
NAGAPATTINAM DISTRICT,

+ CC to M/S. D.KUMARALINGAM Advocate on payment of necessary charges sr 5954

CRL OP.12337/2020

Date :17/08/2020

RD 18/08/2020

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