

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15400 of 2020

1.Jayamary Arokkiyaraj
2.Thomas Alwa Edison
3.Maria Soosai Nixon Arokkiyaraj
4.Kalaichezhiyan Rajagopalan

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
Anti Land Grabbing Special Cell,
Nagapattinam.
(Crime No.5 /2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant Anticipatory bail to the petitioners in the event of their arrest by the respondent police pending investigation of the case in Crime No.5 of 2020 on the file of the respondent police.

For Petitioners : Mr.Babu Rangasamy

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

O R D E R

(The case has been heard through video conference)

The petitioners who apprehends arrest at the hands of the respondent police for the offences publishable under Sections 120B, 409, 420, 465, 467, 471 and 477(A) of IPC, in Crime No.5 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the first accused with the help of Village Administrative Officer, had fabricated Patta and other revenue records and transferred the Government properties in favour of his mother / the second accused herein and thereafter, by Deeds of Settlement, got the properties transferred in his name and other accused names. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that he is not pressing the application in respect of 2nd, 3rd and 4th petitioners who are arrayed as A1, A3 and A4 and he is pressing the present application only in respect of the first petitioner who is a lady and senior citizen, who is arrayed as A2 in this case.

4. The learned Counsel for the petitioners would submit that the first petitioner is an innocent and she is the mother of A1. A1 is the Union Secretary of the opposition party in Keelayur and due to political rivalry, the complaint has been given by the defacto complainant who belongs to the ruling party. He would further submit that unnecessarily, the first petitioner who is the mother of A1, has been dragged into this issue. He would submit that though the allegation is that the accused persons transferred the Government property in their favour, the complaint is neither given by any of the revenue or Government authorities who should have actually given the complaint. Whereas, the complaint has been given by a political functionary. He would submit that the first petitioner is a lady, aged 68 years and she has been suffering from various ailments. He would further submit that the entire case of the prosecution is borne out by records and the first petitioner is prepared to abide by any stringent condition that may be imposed on her. Hence, he prays for grant of anticipatory bail.

5. The learned Additional Public Prosecutor submitted that the 1st petitioner / A2 is the mother of the 2nd petitioner / A1. A1 with the help of the Village Administrative Officer had fabricated Patta and the Revenue Records in favour of the 1st petitioner / A2 and thereafter the 2nd petitioner / A1 has transferred the property in his name and other accused names.

6. In view of the submission made by the learned counsel for the petitioners, this petition stands dismissed as not pressed insofar as the petitioners 2 to 4 are concerned.

7. Taking into consideration of the facts and circumstances of the case and considering the age of the 1st petitioner/A2, this Court is inclined to grant anticipatory bail to the 1st petitioner/A2 subject to the following conditions;

8. Accordingly, the 1st petitioner / A2 is directed to be released on bail in the event of her arrest or on her appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.I, Nagapattinam, on condition that the first petitioner shall execute a 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 1st petitioner / A2 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 1st petitioner / A2 shall report before the respondent police every day at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

[c] the 1st petitioner / A2 shall not tamper with evidence or witness either during investigation or trial.

[d] the 1st petitioner / A2 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 1st petitioner / A2 in accordance with law as if the conditions have been imposed and the 1st petitioner / A2 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.

9. With the above directions, this Criminal Original Petition as far as the 2nd, 3rd and 4th petitioners are concerned stands dismissed as not pressed and this Criminal Original petition in respect of the 1st petitioner/ A2 is concerned, stands ordered.

-sd/-

06/10/2020

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.I, NAGAPATTINAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

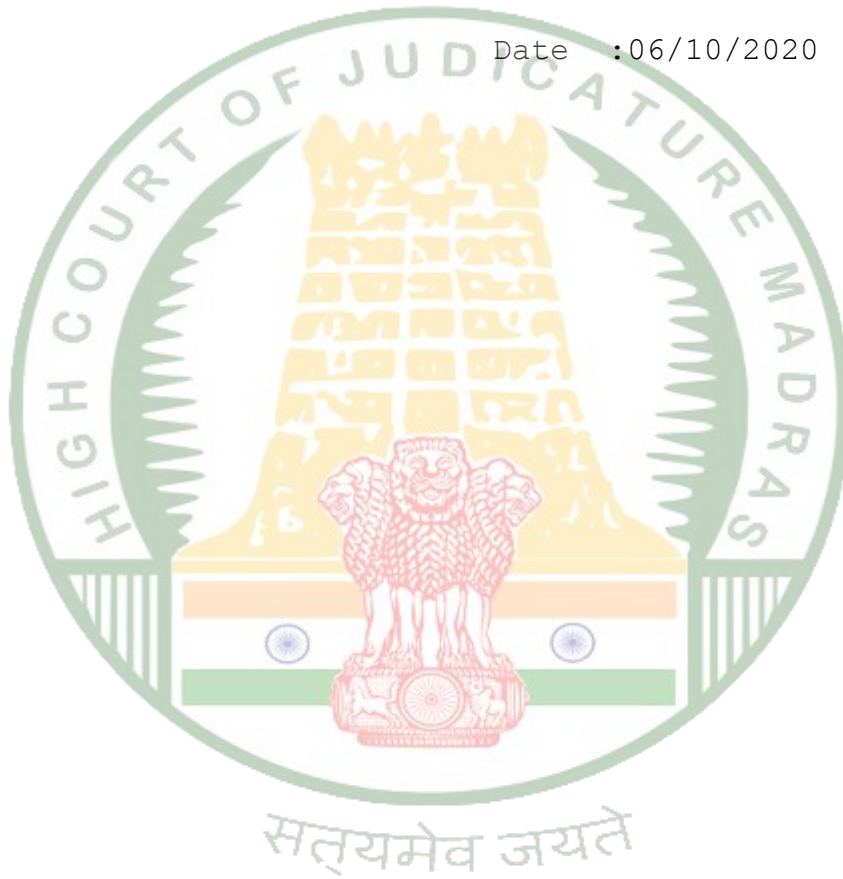
4 THE INSPECTOR OF POLICE,
DCB, ANTI LAND GRABBING SPECIAL CELL,
NAGAPATTINAM.

CC to M/S.BABU RANGASAMY Advocate on payment of necessary
charges sr.6681

CRL OP.15400/2020

Date :06/10/2020

RVR 20/10/2020



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