

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.16116 of 2020

1.Sivaraj Babu
2.Rajeshkumar
3.Ganesan

... Petitioners

Vs.

State Represented by,
The Inspector of Police,
Anti Land Grabbing Special Wing,
Thiruvallur, Thiruvallur District.
(Crime.No.19 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.19 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.T.Arul

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

ORDER

(This 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 Section 420, 465, 468, 471 & 34 of IPC, in Crime No.19 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Ettiammal is that one Thulukanathammal sold her property to her husband Govindasamy by registered sale deed dated 25.07.1967. Right from the sale deed the property was under the possession of Govindasamy and his legal heirs. While so, the legal heirs of Thulukanathammal suppressing the sale deed had created and entered into a oral partition and the same was registered in Doc.No.2473 of 2013. Subsequently, A1/ Elumalai executed the Power of Attorney dated 19.09.2014 infavour of Soundarajan in the year 2014, pursuant, to which the said Soundarajan sold the property to the petitioners herein.

3. The learned counsel for the petitioner would submit that the petitioners are practising Doctors. The 1st and 2nd petitioners are the sons of the 3rd petitioner and they have purchased the property and after paying valid consideration and the petitioners have been granted patta by the Revenue authority. While so they came to know

and they have been cheated by the legal heirs of the Thulukanathammal. He would also submit that without prejudice their contention the petitioners are prepared to deposit the original title deeds of the property to the credit of Crime number and that they will not encumber the property till the disposal of the case.

4. The learned Additional Public Prosecutor would submit that one Ettiammal, W/o.Govindasamy and legal heirs of Govindasamy are the owners of the property. The said Govindasamy had purchased the property during the year 1967 from Thulukanathammal. He would also submit that the legal heirs of Thulukanathammal suppressing the sale had entered into an oral partition pursuant to which, the oral partition was registered by document No.2473 of 2013 based on which Al/ Elumalai has given a Power of Attorney to one Soundarajan and suppressing the earlier sale had been sold to the present 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 petitioner is directed to deposit the original title sale deed before the concerned Magistrate and to be filed an affidavit that they do not encumber the property till the disposal of the case, and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the learned Judicial Magistrate No.II, Thiruvallur District on condition that the petitioners 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 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 daily at 10.30 a.m., for a period of two weeks and thereafter on 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 absconds, a fresh FIR can be registered under Section 229A IPC.

8.With the above directions, this Criminal Original Petition is ordered.

-sd/-
29/10/2020

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.II, THIRUVALLUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL WING,
THIRUVALLUR.

CC to M/S.T.ARUL Advocate on payment of necessary charges

WEB COPY

CRL OP.16116/2020

Date :29/10/2020

RVR 06/11/2020