

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17723 of 2020

1.R.Ashok Kumar .. Petitioners
2.R.Chandra
3.R.Selvendirakumar
4.R.Ramkumar
5.K.Rajaselvi
6.S.Gangaiselvi
7.V.Vijayaselvi

Vs.

The State rep. By ... Respondent
The Inspector of Police
E-1 Singanallur Police Station L & O
Coimbatore
Crime No.1852 of 2020

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioners on bail in the event of their arrest in connection with Crime No.1852 of 2020 pending on the file of the respondent police.

For Petitioners: Mr.A.Swaminathan

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

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 420, 465 & 471 of IPC, in Crime No.1852 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., Krishnakumar is that the residential property situated at 23, Ramaswamy street, Masakalipalayam, Uppilipalayam Village, Coimbatore belongs to his father and subsequently, his father died on 20.02.2015. The further allegation is that the other legal heirs of his father who are respectively brothers and siblings of the de-facto complainant, deleting his name had

obtained a legal heir certificate and based on that, they have executed a release deed in favour of one of their brother ,namely Ashok Kumar and based on that, they have also obtained loan from the financial institution. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocents and due to a property dispute, a false complaint has been given against the petitioners. He would further submit that the property originally belongs to the husband of the second petitioner and father of the other petitioners. He would further submit that during the life time, the father of the petitioners 1, 3 to 7 had obtained loan from the GE Money Capital Finance Limited and he did not repay the loan amount and thereafter, the property was brought for sale. He would further submit that the petitioners have obtained a legal heir certificate from the Tahsildar, Coimbatore South on 18.06.2015 and they have also mentioned the name of the de-facto complainant and his name has been given in Serial No.2 of the Legal Heir Certificate. He would further submit that a false complaint has been given against the petitioners as if the petitioners deleting the name of the de-facto complainant, had obtained the legal heir certificate. He would further submit that in order to protect the property, the petitioners have executed a release deed in favour of the first petitioner and thereafter, they have contested the case and that now the case has been settled and only in the interest of protecting the property, the other petitioners had to release the property in favour of the first petitioner. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor vehemently opposed stating that the first petitioner is the brother of the de-facto complainant and the second petitioner is the mother and other petitioners are siblings of the de-facto complainant. He would further submit that the property in question belongs to the father of the petitioners 1, 3 to 7, who died on 20.02.2015 and suppressing the name of the de-facto complainant, the petitioners had obtained a legal heir certificate and borrowed loan from the financial institution and hence the case.

5. Heard both sides and perused the FIR.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

a) 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 from the date of receipt of a copy of this order, before the **learned Judicial Magistrate No.III, Coimbatore**, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] 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.

[c] the 1st, 3rd and 4th 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.

[d] the 2nd, 5th to 7th petitioners shall report before the respondent police daily at 10.30 a.m for a period of one week and thereafter, as and when required for interrogation.

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioners shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

19/11/2020

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,
<https://hcservices.ecourts.gov.in/hcservices/>
NO.III, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

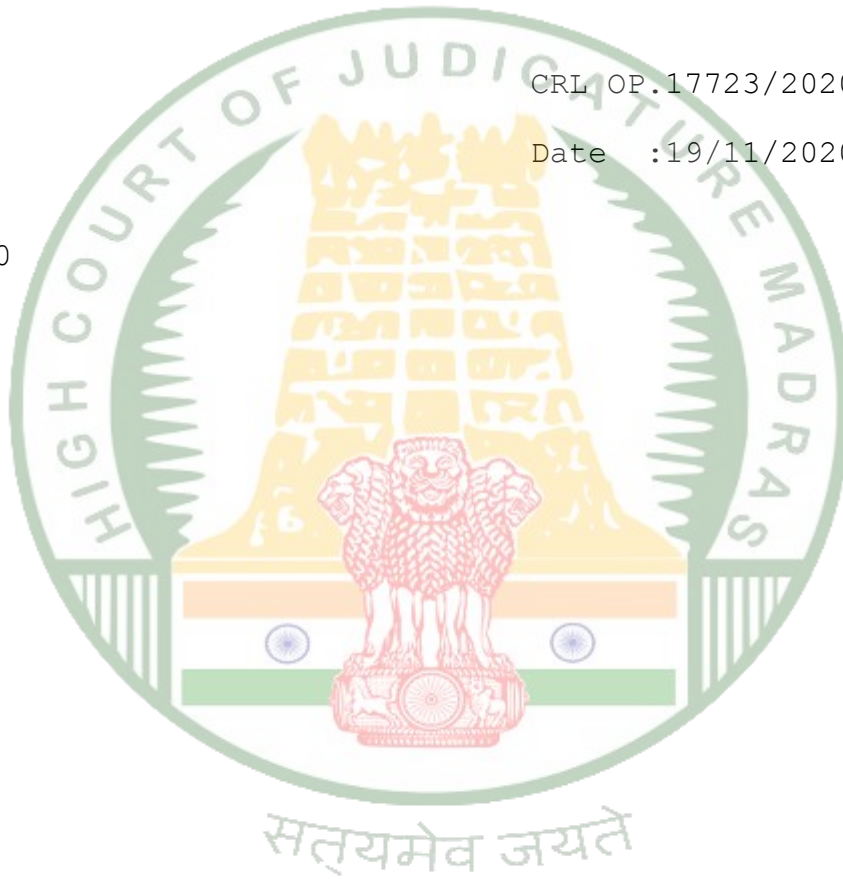
4 THE INSPECTOR OF POLICE,
E-1, SINGANAILLUR POLICE STATION(L & O)
COIMBATORE.

CC to M/S A.SWAMINATHAN Advocate on payment of necessary
charges

CRL OP.17723/2020

Date :19/11/2020

MN-15/12/2020



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