BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/02/2020

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.1913 of 2020

1. Sasikumar,
2. Thiruppathi,
3. Subramanian, ... Petitioners/Accused Rank Not Known

Vs

State rep.by
The Inspector of Police,
Thallakulam Police Station,
Madurai City,
In Crime No.245 of 2020. ... Respondent/Complainant

For Petitioner : M/s.A.Jayaramchandran,
Advocate.
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)
For Intervener : Mr.K.Vamanan, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-
For Anticipatory Bail In Crime No.245 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners, the learned counsel for the intervener and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 420, 294(b), 506(i) of I.P.C., in Crime No. 245 of 2020 on the file of the respondent police, seeks anticipatory bail.

3. The petitioners are figuring as A1 to A3 in this case. The learned counsel for the intervener would contend that the property in question is the absolute property of the defacto complainant / Pitchai. He had settled the property in favour of his son Joshuva Daniel. In the year 2012, the first petitioner Sasikumar got introduced to him through the third petitioner Subramanian. They had prevailed upon the defacto complainant to mortgage the property in question for a sum of Rs.20 Lakhs. Accordingly, a mortgage was created on 13.08.2012.

4.The defacto complainant claims that for running the brick kiln business, the property had to stand in the name of A4 Sekar who is none other than the brother of the defacto complainant and therefore the property was transferred in his name and the business was run on that basis. The defacto complainant was paying interest to Sasikumar every month. While so, the defacto complainant was shocked to see that Sasikumar had purchased the property directly from A4 Sekar. According to the defacto complainant, all the accused had conspired together and grabbed his property.

5.The defacto complainant further claims that he paid a sum of Rs.38 Lakhs for getting back the property. But even after receiving the said amount, the first petitioner is not willing to return the property. The first petitioner had created a further encumbrance on the property by settling the same in favour of his brother Tiruppathi on 19.12.2019. This in substance, is the prosecution case.

6.The learned counsel for the petitioner pointed out that the property originally stood in the name of Sekar. Sekar had purchased the property way back in the year 1996. Sekar was employed abroad. Taking advantage of his absence, according to the learned counsel for the petitioner, the defacto complainant committed impersonation and got the property transferred in his name through a fraudulent sale transaction. This was in the year 2006. In the year 2007, the defacto complainant settled the property in favour of his son Joshuva Daniel.

7.Without being aware of the fact that the sale deed executed in the year 2006 and the gift deed executed in the year 2009 are fraudulent documents, the first petitioner had given a sum of Rs.20 Lakhs on the strength of the mortgage. Sekar returned to India in the year 2013. When he became aware of these transactions, he lodged a complaint before the Registering Authority by invoking Circular No.67. After due enquiry, the competent authority under the Registration Act held that the documents in question are fraudulent.

8.After the first petitioner became aware of the same, he directly purchased the property from Sekar himself. Since the first petiitoner had earlier advanced a sum of Rs.20 lakhs in favour of the defacto complainant, the first petitioner also cancelled the deed of mortage by receiving the said amount from the defacto complainant. It is obvious that the property originally stood in the name of Sekar. But then, the First Information Report is delightfully silent on that aspect.

9.Be that as it may, the case against the petitioner rests on documentary evidence. Therefore, the arrest of the petitioner is not warranted.

10. In view of the above, I am inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.II, Madurai, and on their executing 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 learned Magistrate concerned and on further condition that the petitioner shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

11. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
12/02/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1. THE JUDICIAL MAGISTRATE NO.II, MADURAI.
2. DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
   MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
   THALLAKULAM POLICE STATION, MADURAI CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
   MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.VAMANAN, Advocate (SR-3077[I] dated 13/02/2020)
+1 CC to M/s.A.JEYARAMACHANDRAN, Advocate (SR-2929[I] dated 12/02/2020)

ORDER
IN
CRL OP(MD) No.1913 of 2020
Date :12/02/2020