



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 14/09/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) .No.6426 of 2020

1.Thangaraj Pandiyan
2.Savithri
3.Subramaniyan
4.Sivaraman

... Petitioners/Accused Nos.1,2,5 &7

Vs

The State rep.by,
The Inspector of Police,
The District Crime Branch,
Land Grabbing,
Ramanathapuram.

Crime No.23 of 2020.

... Respondent/Complainant

For Petitioners: Mr.B.Prahalad Ravi,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.S.Thangaraj, Advocate

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

PRAYER :-

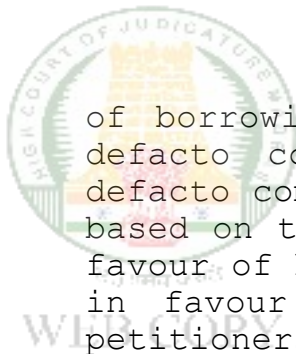
For Anticipatory Bail in Crime No.23 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1, A2, A5 & A7, apprehending arrest at the hands of the respondent Police for the offence punishable under Sections 406, 420, 294(b), 506(i) and 120(B) of IPC, in Crime No.23 of 2020, on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainants said to have borrowed a sum of Rs.30,00,000/- from A1. At that time

<https://hcservices.ecourts.gov.in/hcservices/>



of borrowing the amount, A1 obtained power of attorney from the defacto complainant as security, on 15.03.2020. Thereafter, the defacto complainant repaid the part of the amount. In the mean time, based on the said power of attorney, A1 executed a mortgage deed in favour of his wife, thereafter, executed a sale deed, on 29.06.2018, in favour of one Balakrishnan. Now the allegation is that the petitioners have forged the life certificate of the defacto complainants and illegally transferred the property worth about several crores, based on the power of attorney which was given only as security. Hence, the complaint.

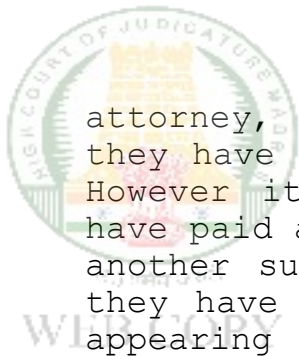
3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4. The learned counsel appearing for the petitioners submitted that, the defacto complainants are brothers, borrowed money from A1. That apart, they have also borrowed huge amount from various persons. In order to settle the loan amount, the defacto complainant executed a power of attorney in favour of A1, to sell the property belongs to them. Subsequently, A1 also settled a sum of Rs.1 crore 75 lakhs to the first complainant and another sum of Rs.1 crore 60 lakhs to the second complainant they have also issued receipts for the same. After paying the entire value of the property the petitioner bonafidely transferred part of the property covered under the power of attorney, in favour of their parties and the petitioners never had intention to cheat the defacto complainants. The entire cost of land now paid to the defacto complainants. Now they have also cancelled the power of attorney executed in favour of the petitioners in respect of the remaining property.

5. The learned counsel appearing for the defacto complainants submitted that, the defacto complainants did not receive any amount from A1. They only borrowed Rs.30,00,000/- and repaid the part amount. The petitioners by producing the forged documents, and using the power of attorney executed as security at that time of borrowing the amount, fraudulently executed the sale deed. That apart, the petitioners forged the life certificate of the defacto complainant and illegally transferred the property, worth about several crores.

6. The learned Government Advocate (Crl. Side), on instructions, submitted that investigation is still pending and the petitioners may be directed to cooperate with the enquiry, and produce the document before the respondent police, for investigation.

7. Considering the rival submissions and on perusal of the records, it is seen that the defacto complainants, who are brothers, said to have borrowed money from the first petitioner at the time they have executed a power of attorney, authorizing A1, as power of attorney to sell the properties belongs to them. The defacto



attorney, A1 has transferred a part of the property. That apart, they have also forged life certificate of the defacto complainants. However it was disputed by the petitioners that, the petitioners have paid a tune of Rs.1 crore 75 lakhs to the first complainant and another sum of Rs.1 crore 60 lakhs to the second complainant, and they have also issued a receipt for the same. The learned counsel appearing for the petitioners also produced a copy of the receipts and also submitted that the petitioners have only transferred the part of the property covered under the power of attorney and the entire land cost has been paid to the defacto complainants.

8.Considering the facts and circumstances of the case that, a money dispute is pending between the parties, that apart, now the defacto complainants cancelled the power of attorney for the remaining properties and a civil suit is said to be pending between the parties regarding the same issue, considering all those circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Ramanathapuram, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 as and when required for interrogation;

(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



(f) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
14/09/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE, SPECIAL COURT FOR LAND GRABBING CASES,
RAMANATHAPURAM
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT
3. THE INSPECTOR OF POLICE
THE DISTRICT CRIME BRANCH, LAND GRABBING,
RAMANATHAPURAM,
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.6426 of 2020
Date : 14/09/2020

VSD
PK/AKM/SAR-3/22.09.2020 : 4P/5C