



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

Tuesday, the Twenty Eighth day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN

CRL OP(MD) No.7008 of 2020

1 ASAITHAMBI
2 RAJALAKSIMI

... PETITIONERS / ACCUSED
No.2 and 3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
OOMACHIKULAM POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 49 OF 2020

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.N.MOHIDEEN BASHA Advocate

For Respondent : Mr.K.K.RAMAKRISHNAN,
Additional Public Prosecutor

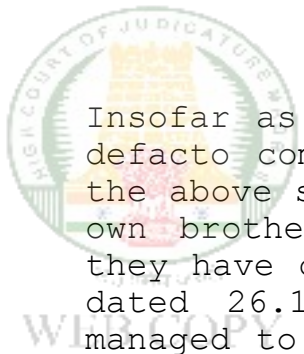
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners are arrayed as Accused Nos.2 and 3 in Cr.No.49 of 2020, registered by Oomachikulam Police Station, Madurai District, for the alleged commission of the offences under Sections 406, 420, 147, 448, 427, 342, 363, 365 and 380 I.P.C., and apprehending arrest at the hands of the respondent police, they have filed this petition under Section 438 of the Criminal Procedure Code, seeking anticipatory bail.

2.Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor, appearing for the respondent on instructions would submit that in the light of the proceedings of the Additional Director General of Police (Crimes), Tamil Nadu, the case is going to be transferred to the CBCID and the orders are expected soon.

3.Mr.N.Mohideen Basha, learned counsel for the petitioners, would submit that with regard to the case registered by the Oomachikulam Police Station in Crime No.67 of 2020 (Crime No.2 of 2020 registered by the CBCID), this Court has granted anticipatory bail to the second petitioner Smt.Rajalakshmi W/o. Asaithambi.



Insofar as the present case is concerned, he would submit that the defacto complainant viz., Smt. Meenakshi, who is arrayed as A.3 in the above said Crime number has lodged a false complaint against his own brother Senthil Kumar/A.1 and the petitioners, alleging that they have conspired and connived with each other and created a Will dated 26.10.2017 and utilising the same, the second petitioner managed to get a Sale Deed in respect of the property belonging to the special child and after execution of the Sale Deed in favour the second petitioner, the petitioners had illegally trespassed into the house at Chettikulam Village and stolen and damaged some articles and got admitted the special child Jeyaprakash, who was residing there, in a Child Health Centre.

4.The learned counsel for the petitioner would submit that the above allegations are nothing but false and concocted and admittedly A.1 got the registered Will in his favour and based on the Will he has executed the Sale Deed in favour of the second petitioner and unless and until the Sale Deed is set aside in the manner known to law the second petitioner continues to be lawful owner and has vested right in the property in question and would further state that in the light of grant of anticipatory bail to second petitioner/A.3 in Crime No.67 of 2020 (Crime No.2 of 2020 registered by the CBCID) on 21.07.2020, anticipatory bail may be granted to the petitioners in this case also.

5.Per contra, Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the State would submit that the title of the second petitioner/A.3 is under cloud and the investigation of the investigation agency reveals that the Will has been created by using a fictitious person, who has also been arrayed A.12 in Crime No.67 of 2020 (Crime No.2 of 2020 registered by the CBCID) and based upon the said Will A.1 said to have been effected the sale in favour of the second petitioner/A.3 and even assuming for the sake of arguments that the second petitioner/A.3 has derived title, is not open to the petitioners/A.2 and A.3 to take law into their own hands and in that process they have trespassed into the house and have stolen and damaged some of the articles. Hence, he strongly opposed this petition.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.This Court while granting anticipatory bail to the second petitioner/A.3 in Crime No.67 of 2020 recorded reasons and the fact remains that as on date, the Sale Deed is yet to be cancelled and the truth or otherwise of the Sale Deed is under investigation. Admittedly, the second petitioner (A.3) is a Home Maker and subservient to the commands of her husband viz., first petitioner/A.2 and she has to look after her two children. Therefore, this Court is of the view that the second petitioner/A.3 is entitled to be kept on bail in the event of arrest.



8. Insofar as the first petitioner/A.2 is concerned, the learned counsel for the petitioners seeks permission of this Court to withdraw the Criminal Original Petition and undertakes to send an endorsement through e-mail to the Registry.

9. In the result, Crl.O.P(MD)No.7008 of 2020 is **ordered** insofar as the second petitioner/A.3 is concerned, subject to the following conditions:

(i) The second petitioner/A.3 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Deputy Superintendent of Police, Crime Branch C.I.D., Counterfeit Currency Wing, Madurai;

(ii) The second petitioner/A.3 shall report before the Deputy Superintendent of Police, Crime Branch C.I.D., Counterfeit Currency Wing, Madurai, twice a week, viz., on every Monday and Tuesday at 11.00 a.m., for a period of three weeks and thereafter, as and when required;

(iii) The second petitioner/A.3 shall not tamper with evidence or witness either during investigation or trial;

(iv) The second petitioner/A.3 shall not abscond either during investigation or trial; and

(v) If the prosecution is of the view that there is a likelihood of tampering with the witnesses and hampering the investigation, they are always at liberty to move a petition for cancellation of bail.

10. Insofar as the first petitioner/A.2 is concerned, in the light of the endorsement undertaken to be made, this Criminal Original Petition is **dismissed as withdrawn**.

sd/-
28/07/2020

/ TRUE COPY /

/ /2020
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.

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



TO

1. THE INSPECTOR OF POLICE
OOMACHIKULAM POLICE STATION,
MADURAI DISTRICT.

2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH C.I.D.,
COUNTERFEIT CURRENCY WING, MADURAI.

ORDER

IN

CRL OP(MD) No.7008 of 2020

Date : 28/07/2020

SJ

TK/VR/SAR.3/29.07.2020/4P/4C