



WEB COPY

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

Reserved on	28.09.2020
Delivered on	01.10.2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . Nos.7266 and 8113 of 2020

K.JEGAN KUMAR

... PETITIONER/ACCUSED No.4
in CRL OP(MD)No.7266 of 2020

1.T.SARAVANAN
2.R.SEENIVASAN
3.S.KALAIVANI

... PETITIONERS/ACCUSED 1,2,5
in CRL OP(MD)No.8113 of 2020

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CCB POLICE STATION,
MADURAI CITY,
MADURAI DISTRICT.
(CRIME NO.28 OF 2020)

... RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

R.B.BALANAMASIVAYAM

... PETITIONER/INTERVENER/
DEFACTO COMPLAINANT
In Cr1.M.P(MD) Nos.3638 & 3953 of 2020
In CRL OP(MD) Nos.7266 & 8113 of 2020

In Cr1.O.P.(MD).No.7266 of 2020

For Petitioner : Mr.Selvin George, Advocate
for M/s.K.Sathish Kumar, Advocate.

In Cr1.O.P.(MD).No.8113 of 2020

For 2nd Petitioner : Mr.A.Sivasubramanian
Advocate

For Petitioners : Mr.J.Jeyakumaran, Advocate
1 & 3 for M/S.M.Suresh
Advocate



In both Crl.O.Ps.

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

In Crl.M.P(MD) Nos.3638 & 3953 of 2020
in CRL OP(MD) Nos.7266 & 8113 of 2020.

For Intervener : Mr.R.Gandhi,
Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No. 28 of 2020 on the file of
the respondent police

ORDER : The Court made the following order :-

Totally there are six accused in this case. The petitioner in Crl.O.P.(MD).No.7266 of 2020 is A4, and the petitioners in Crl.O.P.(MD).No.8113 of 2020 are A1, A2 and A5 apprehending arrest at the hands of the respondent police for the offences punishable under sections 384, 420, 465, 419, 468, 471 and 120(B) and Section 4 of Tamilnadu Prohibition of Charging Exorbitant Interest Act, 2003, in Crime No.28 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant's family is running a trust in their ancestral property situated at Valanadu Village, Muthukulatoor Taluk, Ramanathapuram District, wherein, in a vast extent of land "Karuvalam Trees" are available. Earlier, the defacto complainant has sold Karuvalam trees to one Bose for a sum of Rs.45,00,000/-, out of which, the above said Bose said to have supplied hardwares materials worth about Rs.15,00,000/- to the defacto complainant for constructing a temple, and without paying the remaining amount, the said Bose has engaged one Sundar, to remove Karuvalam tress. Hence, the defacto complainant has given a complaint before the Deputy Superintendent of police, Paramakudi. During the enquiry, A1 and A2 in this case appeared and stated that the above said Bose borrowed money from them and they demanded money to be paid by the defacto complainant. For which, he has also agreed to settle the amount. Subsequently, A1 and A2 said to have obtained defacto complainant's signature in the blank stamp papers and on 03.02.2017, the defacto complainant also executed power of attorney in favour of A1 and A2 in respect of a valuable property belonged to him. Thereafter, on 01.05.2019 the defacto complainant was attacked by the said Bose and he was hospitalized for a long time. In the mean time, on 30.05.2019, A1



complainant from A3, and based on that, A1 has sold the property in favour of his wife/A4 and his relative/A5. According to the defacto complainant, the property is worth about Rs.1.75 Crores and by creating forged documents and a life certificate, A1 and A2 said to have sold the property in favour of A4 and A5. Hence, the present complaint.

3.Heard the learned counsel appearing for the petitioners and the intervener/defacto complainant and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

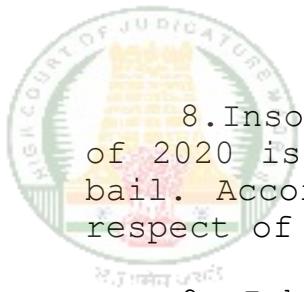
4.The learned counsel appearing for the petitioners in Crl.O.P. (MD).No.8113 of 2020 submitted that, in the year 2017 the defacto complainant has received a sum of Rs.74,00,000/- from A1 and executed a power of attorney in favour of A1 in respect of the present property, which was also duly registered before the Sub Registrar Office, Thallakulam. Thereafter, in the year 2019, the defacto complainant and the first petitioner obtained a life certificate of the defacto complainant from the Doctor, who is arrayed as A3 in this case. Based on that, A1 has sold the property in favour of A4 and A5. In the meantime, the defacto complainant has also filed a suit to set aside the sale deed in O.S.No.204 of 2019, before the VI Additional District Sessions Court, Madurai, and A1 also filed his written statement and the same is pending trial. According to him, there is no cheating or forgery at any rate, it is a civil dispute. Hence, he prayed for grant of anticipatory bail to the petitioners.

5.The learned counsel appearing for the petitioner in Crl.O.P. (MD).No.7266 of 2020 submitted that he is a *bonafide* purchaser and he is no way related to A1. He further submitted that based on the registered power of attorney, he has purchased the property for a valuable consideration. He further submitted that the petitioner has been falsely implicated in this case.

6.The learned counsel appearing for the intervener/defacto complainant, submitted that, A1 and A2 forcibly obtained power of attorney from the defacto complainant. Thereafter, the petitioners have created forged life certificate of the defacto complainant and based on that, the sale deed has been executed in favour of his wife/A4, and his close relative/A5. The value of the property is worth about Rs.2 Crores and they have fraudulently taken over the property. Hence, he opposed this petition.

7.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the investigation is pending. He further submitted that in this case A2 has already been arrested and released on bail and he is complying with the conditions. Insofar as the forged life certificate of the defacto complainant is concerned, the custodial interrogation of the petitioners is required and

<https://hcmjcsreports.hcmjcs.in/hcmjcsreports/>



8. Insofar as the second petitioner/A2 in Crl.O.P.(MD).No.8113 of 2020 is concerned, he has already been arrested and released on bail. Accordingly, this criminal original petition is dismissed in respect of the second petitioner/A2 in Crl.O.P.(MD).No.8113 of 2020.

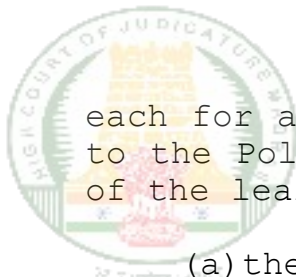
9. I have considered the rival submissions

10. Considering the facts and circumstances of the case and also considering the rival submissions made on either side and on perusal of the materials available on records, it is seen that there is a money dispute between the defacto complainant and One Bose, A1 and A2 said to have lent money to the said Bose for interest, and in a earlier mediation, the defacto complainant said to have agreed to repay the said amount to A1 and A2. In the year 2017, a power of attorney has also been executed in favour of A1 by the defacto complainant, and it has not been cancelled. According to A1, the defacto complainant received a sum of Rs.74,00,000/- from A1, and also executed a sale receipt in favour of A1 and a copy of the sale receipt was also produced before this Court, which was disputed by the defacto complainant.

11. Be that as it may, the main allegation against the petitioners is that A1 has forged the life certificate of the defacto complainant and sold the property in favour of A4 and A5. After the execution of the sale deed, the defacto complainant has filed a suit in O.S.No.204 of 2019 on the file of the VI Additional District Sessions Court, Madurai, and the same is pending for trial. Now, on the very same allegations, in the year 2020, the present complaint has been filed alleging that A1 in this case forged life certificate of the defacto complainant and sold the property, which is also a subject matter in the suit.

12. Considering the above circumstances and the fact that it is a money dispute between the parties and on the very same allegation, a civil suit is also pending, and now A2 has already been arrested and released on bail. A3 and A4 are only a purchasers of the property and absolutely there are no other allegations made against them, I am inclined to grant anticipatory bail to the A1, 4 and 5 with certain conditions.

13. Accordingly, the petitioners 1 and 3/A1 and 5 in Crl.O.P.(MD).No.8113 of 2020 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 Special Judicial Magistrate for exclusive Trial of Land Grabbing Cases, Madurai and the petitioner/A4 in Crl.O.P.(MD).No.7266 of 2020 is order to be released on bail in the event of arrest or his appearance within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Madurai, on condition that each of the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) 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 first petitioner/A1 in Crl.O.P.(MD).No.8113 of 2020 shall report before the respondent police daily at 10.30 a.m until further orders. Further, the first petitioner is directed to cooperate with the enquiry.

(c) the other petitioners/A4 and 5 shall report before the respondent Police as and when required for interrogation.

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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]; and;

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

sd/-
01/10/2020

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/ /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.

TO

1 THE SPECIAL JUDICIAL MAGISTRATE
FOR EXCLUSIVE TRIAL OF LAND GRABBING CASES,
MADURAI

2 THE JUDICIAL MAGISTRATE NO.1,

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



3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI

4 THE INSPECTOR OF POLICE
CCB POLICE STATION,
MADURAI CITY.

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

+1. C.C. to M/S.R.GANDHI, Advocate SR.No. 18813

ORDER
IN
CRL OP(MD) . Nos.7266
and 8113 of 2020
Date :01/10/2020

vsg
JM/PN/SAR IV/06.10.2020/6P/7C