



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/10/2020

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) .Nos.10213 & 9391 of 2020

1.Naseem Banu
2.Mariam Beevi

... Petitioners/Accused Nos.2 & 3
in CRL OP(MD)No.10213 of 2020

1. Badhurnisha Begam
2. Nelofer Nisha
3. M.Sameem @ Asif Shameem

... Petitioners/Accused Nos.1,4 & 5
in CRL OP(MD)No.9391 of 2020

Vs.

The Sate rep.by,
The Inspector of Police,
Natham Police Station,
Dindigul District
Crime No. 213 of 2018.

... Respondent/Complainant
in Both Petitions

M.Raihana Begam

... Petitioner/Intervener/
Defacto Complainant
Crl.MP(MD)No.4477/2020 in
Crl.OP(MD)No.9391/2020

For Petitioners : Mr.I.Sam Jegan, Advocate.
In Both Petitions

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

For Intervener : Mr.R.Senthilkumar, Advocate.
In Crl.OP(MD)No.9391/2020

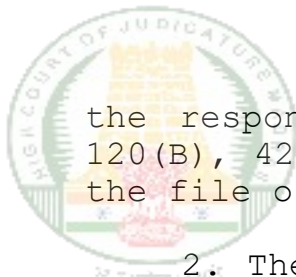
PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

COMMON PRAYER :- For Anticipatory Bail in Crime No.213 of 2018 on
the file of the Respondent Police

COMMON ORDER : The Court made the following order :-

The petitioners/A-1 to A-5 apprehending arrest at the hands of

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



the respondent police for the offences punishable under sections 120(B), 420, 465, 467, 468 & 471 of IPC, in Crime No.213 of 2018 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is daughter of A-1. The property originally belongs to their mother in which the defacto complainant has 1/5th share. While being so, without the knowledge and consent of the defacto complainant, the other daughters have executed Hiba/settlement deed on 16.03.2006 in favour of their mother. In turn their mother has executed a settlement deed in favour of the other sisters except the defacto complainant. Further alleged that, in fact, in respect the subject property already partition suit was filed and the same was decreed in respect of 1/5th share in O.S.No.32 of 2007 by the learned Fast Track Judge, Dindigul. Hence, the complaint.

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

4. The learned counsel appearing for the petitioners submitted that totally there are four daughters and the subject property originally belongs to their father and after the demise of their father the other daughters executed Hiba in favour of their mother in which the defacto complainant has no share. Since the defacto complainant already without the knowledge of the other daughters, namely; the petitioners herein, executed Hiba in favour of her own son and therefore, the mother of the defacto complainant has lodged a complaint and the same has been registered in Crime No.16 of 2014 on the file of the District Crime Branch, Dindigul the same is pending for investigation. He further submitted that, infact, a suit was also been filed before the District Munsif, Kodaikanal in O.S. No.72 of 2015 for declaration. While being so, the present complainant has filed against the petitioners with the false allegations. He further submitted that entire dispute are civil in nature and suit is also pending and as such the custodial interrogation of the petitioners is not required in this case. Hence, he seek anticipatory bail.

5. The learned counsel appearing for the intervener submitted that the property originally belongs to their father and after the demise of her father without her knowledge and consent, the petitioners herein/other sisters have executed Hiba in favour of their mother and inturn their mother has executed Hiba in favour of other daughters except the defacto complainant. Thereby, the petitioners said to have cheated the defacto complainant in respect of her 1/5th share in the subject property. Therefore, all the accused persons said to have committed serious offence as against the defacto complainant.



6. The learned Government Advocate (Crl. Side), on instructions, submitted that the dispute between the petitioners and the defacto complainant is civil in nature. He further submitted that in respect of the subject property civil suit is also pending.

7. Considering the rival submissions and considering the fact that in respect of subject property civil suit is also pending and the mother of the defacto complainant has also preferred a complainant against her before the District Crime Branch, Dindigul in Crime No.16 of 2014 the same is pending for investigation and the entire dispute is civil in nature and as such custodial interrogation of the petitioners is not required, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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, Natham, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 petitioner shall appear before the respondent police 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 5560]; and;

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

sd/-

15/10/2020

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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, NATHAM,
DINDIGUL DISTRICT
 - 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT
 - 3.THE INSPECTOR OF POLICE,
NATHAM POLICE STATION, DINDIGUL DISTRICT.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1.CC to MR.SENTHIL KUMAR, Advocate SR.No.7038

ORDER
IN
CRL OP(MD) Nos.10213 & 9391 of 2020
Date :15/10/2020

KSA
PK/VR/SAR-4/28.10.2020 : 4P/6C