



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

Date : 04/11/2020

PRESENT

WEB COPY

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

CRL OP(MD). No.10685 of 2020

Ganesan

... Petitioner/Sole Accused

Vs

The State Rep. by
The Inspector of Police,
Anti-Land Grabbing Special Cell,
(City Crime Branch),
Tirunelveli City.
(Crime No. 45 of 2020)

... Respondent/Complainant

For Petitioner : Mr. T.Lenin Kumar, Advocate.

For Respondent : M/s.M.Anandha Devi,
Government Advocate (Crl.Side)

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

PRAYER :-

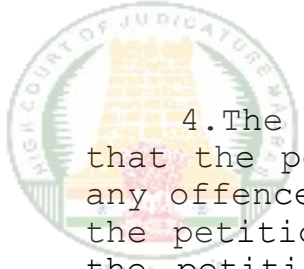
For Anticipatory Bail in Crime No.45 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A-4, apprehending arrest at the hands of the respondent police for the offences punishable under sections 419, 420, 427, 447, 465, 467, 468, 471 and 120B of IPC, in Crime No.45 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the suit property originally belonged to the defacto complainant. While being so, A1 and A2 have forged a power of attorney as if they are the legal heirs of the defacto complainant's father and executed power of the attorney in favour of A3 in respect of the said property. In turn, A3 has entered into sale agreement with the petitioner to sell the above said properties. A1 and A2 are not legal heirs of the defacto complainant's father and also they have not title over the property. Hence, the crime has been registered against the petitioner and others.

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



4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is a bona fide purchaser. He further submitted that the petitioner has entered into sale agreement with A3 and fixed total consideration of Rs.40,00,000/- and the petitioner has also paid a sum of Rs.4,00,000/- as advance. Thereafter, the petitioner is ready and willing to pay the remaining sale consideration to register the sale deed. After receiving the advance amount, A3 did not come forward to execute the sale deed. Thereafter, the petitioner has also filed a suit in O.S.No.83 of 2020 for specific performance on the file of the Sub Court, Tirunelveli and the same is pending. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that A1 and A2 have forged a power of attorney as if they are the legal heirs of the defacto complainant's father and executed power of the attorney in favour of A3 in respect of the said property. In turn, A3 has entered into sale agreement with the petitioner to sell the above said properties. Hence, the crime has been registered against the petitioner and others.

6.It is seen that totally there are four accused in this case, in which, the petitioner has been arraigned as A4. Admittedly, the petitioner has entered into sale agreement with A3 on 04.02.2020 for purchasing of the said property for total sale consideration of Rs.40 lakhs and the petitioner has also paid a sum of Rs.4,00,000/- as advance. After receiving the advance amount, A3 did not come forward to execute the sale deed. Thereafter, the petitioner has also filed a suit in O.S.No.83 of 2020 for specific performance on the file of the Sub Court, Tirunelveli and the same is pending. It is also seen that in the investigation, it revealed that the suit property are not belonged to A1 and A2 and they have no title over the property. Without any title, they have executed power of attorney in favour of A3.

7.Considering the facts and circumstances of the case and also considering the fact that now the petitioner is ready and willing to surrender the original agreement for sale, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is directed to surrender the original agreement for sale to the credit of crime No.45 of 2020, before the Special Court for Land Grabbing Cases (Magisterial level), Tirunelveli. On such surrender, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Special Court for Land Grabbing Cases (Magisterial level), Tirunelveli on condition that the petitioner shall execute 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 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 petitioner 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 report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/11/2020

/ 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.

TO

1. THE JUDGE,
SPECIAL COURT FOR LAND GRABBING CASES (MAGISTRATE LEVEL),
TIRUNELVELI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
ANTI-LAND GRABBING SPECIAL CELL,
(CITY CRIME BRANCH), TIRUNELVELI CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.10685 of 2020

Date : 04/11/2020