



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

Date : 15/10/2020

PRESENT

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

CRL OP(MD). No.11093 of 2020

Muthusamy

... Petitioner/Sole Accused

Vs

The State rep.by
The Sub Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
Crime No.292/2019.

... Respondent/Complainant

For Petitioner : Mr.M.Jothi Basu,
Advocate.

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

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

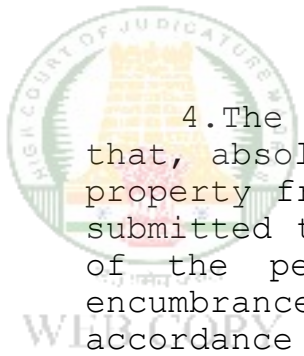
PRAYER :- For Anticipatory Bail in Crime No.292 of 2019 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner is a sole accused apprehending arrest at the hands of the respondent police for the offences punishable under sections 420, 465, 468, 471 of IPC, in Crime No.292 OF 2019 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the subject property originally owned by the family members of the accused. They have executed a power of attorney in favour of the accused on 04.11.2003 and on the strength of the power of attorney, the petitioner has executed a sale deed in favour of the defacto complainant on 13.04.2018. Thereafter, the defacto complainant came to understand that one of the executor who executed a power of attorney in favour of the accused died and the said fact was suppressed by him and executed a sale deed. Hence, the complaint.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondent.



4.The learned counsel appearing for the petitioner submitted that, absolutely there is no counter claim in respect of the subject property from other legal heirs of the deceased person. He further submitted that since the property belongs to all the family members of the petitioner herein and he also undertakes that if any encumbrance in respect of property he will clear the same in accordance with law. He further submitted that the petitioner is aged about 72 years and custodial interrogation of the petitioner is not required in this case. Hence, he seeks anticipatory bail.

5.The learned Government Advocate (criminal side), on instructions, submitted that disclosing the death of one of the executor the petitioner has executed a registered sale deed in favour of the defacto complainant on 13.04.2018.

6. It is seen from the records that the petitioner is a sole accused. On the strength of the power of attorney dated 04.11.2003, the petitioner has executed a sale deed in favour of the defacto complainant dated 13.04.2018 for valid sale consideration. Thereafter, the defacto complainant came to understand that one of the executor of the power of attorney already died and the said fact was suppressed by the petitioner and executed the sale deed. Now, the petitioner undertakes that no legal heirs of the deceased person is claiming any right over the subject property, if any claim is there, he will settle the matter in accordance with law.

7. Considering the undertaking given by the petitioner and also considering the age of petitioner and the custodial interrogation of the petitioner is not required in this case and hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, 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 learned Judicial Magistrate, Rajapalayam, and on his executing 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 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., without fail for a period of Two weeks and thereafter, as and when required for interrogation.

(c)the petitioner shall not tamper with evidence or witness
<https://hccourtscorpus.in/hccservices> 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/-
15/10/2020

/ 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 JUDICIAL MAGISTRATE, RAJAPALAYAM.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE SUB INSPECTOR OF POLICE,
RAJAPALAYAM NORTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-7053[I] dated 16/10/2020)

ORDER
IN
CRL OP(MD) No.11093 of 2020
Date :15/10/2020

KSA
TK/JC/SAR.3/22.10.2020/3P/6C

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