



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/10/2020

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PRESENT

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

CRL OP(MD).No.11550 of 2020

K.S.Muthu

... Petitioner/Accused No.3

Vs

State Rep. by

The Inspector of Police,

Special Cell for Prevention of Land Grabbing,

Madurai.

(In Crime No.28 of 2020)

...Respondent/Complainant

For Petitioner : Mr.B.P.Rathinaprakash,
Advocate.

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

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

PRAYER :-

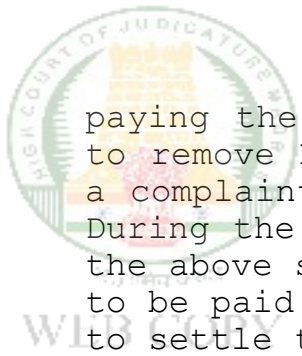
For Anticipatory Bail in Crime No.28 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 384, 420, 465, 410, 468, 471 & 120(B) IPC., and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003, in Crime No.28 of 2020 on the file of the respondent police, seeks 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/-

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 said to have obtained a forged life certificate of the defacto 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 petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4.The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and the petitioner has no role to play in either collecting exorbitant interest from anybody or conspiracy in grabbing the land. Absolutely no material on record except the allegation that the petitioner has given false certificate of living to defacto complainant without verifying him personally and the said certificate was misused by the remaining accused for conveyances the lands. 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 the investigation is pending. Insofar as the forged life certificate of the defacto complainant is concerned, the custodial interrogation of the petitioner is required and opposed to grant of anticipatory bail to the petitioner.

6.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. Insofar as A3 is concerned, he given a false certificate. In the year 2017, a power of attorney has also been executed in favour of A1 by the defacto complainant, and <https://hccservicescourts.gov.in/hccservices> 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.

7.Be that as it may, the main allegation against the A1 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.

8.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 and A1, A4 and A5 were already granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.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 Special Court for prevention of Land Grabbing, Madurai, 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 morning at 10.30 a.m., without fail, for a period of Two Weeks and thereafter as on 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/-
16/10/2020

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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 JUDGE,
SPECIAL COURT FOR PREVENTION OF LAND GRABBING,
MADURAI.
- 2 THE INSPECTOR OF POLICE
SPECIAL CELL FOR PREVENTIONN OF LAND GRABBING,
MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.11550 of 2020
Date :16/10/2020

vsd
JM/VR/SAR III/22.10.2020/4P/4C