



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

Date : 09/12/2020

PRESENT

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

CRL OP(MD) . No.14095 of 2020

1.Pappathi Ammal
2.Sekar
3.Venkatesh
4.Baskaran

... Petitioners/Accused No.1, 2, 4 & 5

Vs

1.State Rep.by,
The Inspector of Police,
District Crime Branch,
Theni District.
In Crime No.05 of 2020.

... Respondent/Complainant

2. Parthiban

... Respondent/Defacto Complainant

For Petitioners: Mr.N.Mohideen Basha,
Advocate.

For R-1 : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For R-2 : Mr.R.Arun Kumar
Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.05 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1, A2, A4 and A5, apprehending arrest at the hands of the respondent police for the offences punishable under sections 465, 468, 471, 472, 420 and 506(i) of IPC, in Crime No.05 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner has illegally executed a sale deed in favour of the second petitioner by forging patta of the defacto complainant's land before the sixth

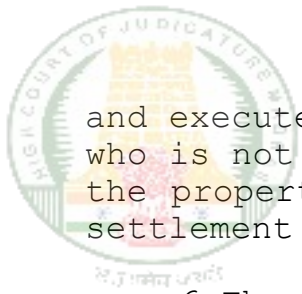


accused for which, the accused Nos.3 and 4 herein stood as witness. Hence, the present complaint.

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 the subject property originally owned by the first petitioner's husband comprised in S.No.62/4 to an extent of 3 acres of land and comprised in S.No.62/8 to an extent of 11 cents totally 3.11 acres. After demise of her husband, she had no issue and executed settlement deed in favour of A2, who is none other than her husband's brother's son and the same was registered vide Doc No.3695 of 2018 on the file of the Sub Registrar Office, Chinnamanur. After UDR scheme the S.No.62/4 was sub divided as 62/4A, 62/4B and 62/4C. While being so, unfortunately the patta has assigned in favour of one Mohan Raj comprised in S.No.64/4B to an extent of 2.23 acres of land, which is unconnected to the subject property. Therefore, the first petitioner has challenged the patta under the UDR scheme before the revenue Divisional Officer and on the enquiry, wife of the said Mohan Raj and also one of his son made statements on 21.01.2019 and had no objection for challenging the patta in favour of the first petitioner. Thereafter, the defacto complainant has filed a suit in O.S.No.41 of 2019 for declaration of permanent injunction. Since the defacto complainant and other interfere with the peaceful possession and enjoyment of the subject property, the first accused has also filed another suit in O.S.No.230 of 2020 on the file of the Sub Court, Uthamapalayam. Both the suits are pending for adjudication, the RDO, Uthamapalayam has closed the appeal filed by the first accused for the reason in respect of the very same subject property civil suits are pending. In fact the first accused has challenged the said order before this Court in W.P.(MD).No.25233 of 2019 and the same was disposed by this Court, by order dated 27.11.2019 directed the first petitioner to approach the Revenue Divisional Officer once again. He further submitted that the first and second petitioners are in possession and enjoyment of the suit property. After filing suits, the defacto complainant has not obtained interim order before the civil Court, now lodged the present complaint. Therefore, the custodial interrogation of the petitioners is not required. He further submitted that though this Court dismissed the anticipatory bail petition on earlier occasions, the above facts are not brought to the notice of this Court. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned counsel appearing for the second respondent/defacto complainant submitted that the subject property originally owned by the husband of the first petitioner and thereafter, which was settled in favour of the defacto complainant. On verification, the defacto complainant found that the first



and executed the settlement deed in favour of the second petitioner, who is not legal heir of the first petitioner. Only in order to grab the property, the petitioners fabricated the patta and executed the settlement deed in favour of the second accused.

6.The learned Government Advocate (Crl.Side) appearing for the first respondent police submitted that the first petitioner has illegally executed a sale deed in favour of the second petitioner by forging patta of the defacto complainant's land before the sixth accused for which, the accused Nos.3 and 4 herein stood as witness.

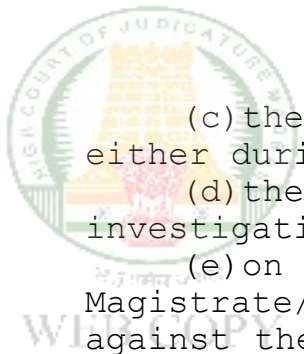
7.On perusal of the materials available on records, it is seen that totally there are five accused in this case, in which, the petitioners have been arrayed as A1, A2, A4 and A5. The first accused has title over the property through her husband. It is also seen that the documents produced by the learned counsel for the petitioners, it revealed that in the 'A' registered, the subject property stands in the name of her husband. Thereafter, while being so, the patta was issued in the name of one Mohan Raj in respect of the subject property and as such the first petitioner has filed an appeal before the RDO and the same was closed for the reason that the first petitioner as well as the defacto complainant have filed suits in respect of the very same subject property and the same were pending for adjudication. Admittedly, in respect of the subject property, there are two suits are pending between the petitioners and the defacto complainant. It is also seen that in respect of the subject property there are so many proceedings are pending and as such no prima facie case has been made out as against the petitioners. Therefore, the custodial interrogation of the petitioners is not required.

8.Considering the facts and circumstances of the case and also considering the rival submissions on either side and on perusal of the materials available on records, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Theni, on condition that the petitioners 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 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 petitioners shall report before the respondent police as <https://hcservices.mca.gov.in/hcservices> 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/-

09/12/2020

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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, THENI
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT
- 3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, THENI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.14095 of 2020

Date :09/12/2020

VSG

PK/KV/SAR-I/06.01.2021 : 4P/5C