



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

Date : 10/12/2020

PRESENT

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

CRL OP(MD).Nos.14181 and 14114 of 2020

1.Balasubramanian

2.Anuradha

... Petitioners/Accused Nos.1 & 2
in CRL OP(MD)No.14181 of 2020

S.Murugan

...Petitioner/Accused-A3
in CRL OP(MD)No.14114 of 2020

Vs.

The State rep.by
The Inspector of Police,
Anna Nagar Police Station (Crime),
Anna Nagar,
Madurai City - 625 020.
Crime No.1954 of 2020

... Respondent/Complainant
in both petitions

For Petitioners : Mr.J.Lawrance, Advocate
in CRL OP(MD)No.14181 of 2020

For Petitioner : Mr.K.Jagadeesan, Advocate
in CRL OP(MD)No.14114 of 2020

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

For Intervenor : Mr.K.Muthu Ganesha Pandian, Advocate
in Both Petitions

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

PRAYER :-

For Anticipatory Bail in Crime No.1954 of 2020 on the file of
the Respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1, A2 and A3, apprehending
arrest at the hands of the respondent police for the offences
punishable under sections 120(b), 406, 420 and 468 IPC, in Crime
No.1954 of 2020 on the file of the respondent police, seeks

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



2.The case of the prosecution is that the defacto complainant is the absolute owner of the subject property. She decided to sell her property and asked the first accused being the real estate broker to sell her property. On his instigation, she executed a power of attorney to sell the subject property in favour of the first accused. On the assurance given by the first accused that he immediately sell the property for a valuable consideration and since the defacto complainant was in urgent need of money, the first accused paid a sum of Rs.7,00,000/- to the defacto complainant. Thereafter, on the strength of the power of attorney, the first accused executed a sale deed in favour of A3 and A4 on 25.09.2020. Thereafter, the first accused had received the entire sale consideration and cheated the defacto complainant. Hence, the case has been registered.

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 petitioners are arrayed as A1, A2 and A3 in both the petitions. He further submitted that through A2, A1 was introduced to defacto complainant to sell her property for her urgent need of money. He paid the initial sale consideration and also issued a receipt for the amount received by the defacto complainant, dated 27.08.2020. After receipt of the entire amount, the defacto complainant executed a general power of attorney in respect of their property in favour of the first accused to sell the same. Thereafter, the first accused entered into a sale agreement with the third accused in respect of the entire property. Subsequently, the third accused could not able to arrange the funds for the entire property and as such along with A4 he arranged the money and executed a sale deed in favour of A3 and A4 by a registered sale deed dated 25.09.2020. The learned counsel for the petitioners produced the receipt showing the date of execution of power of attorney and the date, when he has paid the entire amount to the defacto complainant. Therefore, only to grab more money, a false complaint is foisted against the petitioner and as such he prayed to grant anticipatory bail to the petitioner.

5.Insofar as the third accused is concerned the learned counsel for the defacto complainant submitted that he is not a bonafied purchaser. On the payment of sale consideration, the first accused on the strength of the power of attorney executed a sale deed in favour of the A3 and A4. In fact, A3 only entered into the crime by purchasing the entire extent of the property vide sale agreement dated 29.08.2020. Thereafter, he could not able to arrange the funds to purchase the entire property and he arranged the funds through A4. Thereafter, they purchased property by the registered sale deed dated 25.09.2020 by A3 and A4. Therefore, the entire



allegations according to the defacto complainant only as against the first accused. The third accused nothing to do with the allegations as alleged by the prosecution.

6.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the defacto complainant approached the first accused for need of money and also she has demanded Rs.20 lakhs. But the first accused only had given as concerned about Rs.15 lakhs. Initially, the first accused has lend Rs.2 lakhs to the complainant. At that time of transactions, the defacto complainant executed a power of attorney in favour of the first accused and also handed over the original documents of the subject matter of the land. There was a oral agreement between the complainant as well as the first accused. When the complainant repaid the entire amount he has to reconvey the property in favour of the complainant. After receipt of the money in order to cheat the defacto complainant, the first accused executed a sale deed in favour of A3 and A4. A4 is the own brother of the first accused and A3 is the relative of the first accused. Investigation in this case is still pending.

7.It is seen that there are totally four accused, in which the accused are arrayed as A1 to A3. Originally the subject property owned by the defacto complainant. For her urgent need of money, she decided to sell her property. Thereafter, the first accused being a real estate broker was asked to sell her land. On receipt of Rs.7,00,000/- by way of RTGS and Rs.2 lakh by way of cash, she executed a power of attorney in favour of the first accused, on 27.08.2020. In fact on the assurance given by the first accused that he would sell the property sooner for valuable consideration and believing the said words, she also executed a power of attorney and also obtained a sign in the blank papers for other purpose at that time of executing sale deed. Thereafter, on the strength of the said power of attorney, A1 executed a sale deed in favour of A3 and A4, who are none other than his brother and friend by a sale deed on 25.09.2020. Thereafter, all the accused persons failed to pay the entire sale consideration to the defacto complainant. It is also seen that A1 also made a receipt for the consideration on the signed papers obtained from the defacto complainant. On perusal of the said receipt, the signature found in the receipt has been put in the end of the every paper and as such it is made up with the signed papers by the first accused.

8.It is also seen that the defacto complainant approached the first accused to sell her land. At that time, it was stated that only after execution of power of attorney, the land could be sold to the other party. Believing the said circumstances, the defacto complainant executed a power of attorney without receipt of entire sale consideration and thereby, the petitioners cheated the defacto complainant. Insofar as A3 is concerned, he along with his brother A1 purchased the property by the registered sale deed dated 25.09.2020. Therefore, all the accused persons colluded only with an



intention to cheat the defacto complainant and after selling the property by way of sale deed on 25.09.2020 without paying the entire sale consideration, they cheated the defacto complainant.

9. The learned Government Advocate (Crl.side) submitted that the first accused so far involved in six previous cases and he is a habitual offender in similar kind of offences. In so far as the second accused is concerned he only introduced the first accused to the defacto complainant and also committed the offence along with other accused.

10. Considering the facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioners.

11. Accordingly, these Criminal Original Petitions are dismissed.

sd/-
10/12/2020

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/ /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 INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION (CRIME),
ANNA NAGAR,
MADURAI CITY - 625 020.

2. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-8095[I] dated 11/12/2020)

ORDER IN
CRL OP(MD).Nos.14181 and
14114 of 2020
Date :10/12/2020

vsd
TK/PN/SAR.2/30.12.2020/4P/4C