



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/12/2020

PRESENT

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

CRL OP(MD) . No.14188 of 2020

T. Murugesapandian

... Petitioner/Accused No.3

Vs

State:

The Inspector of Police,
Kurumbur Police Station,
Tuticorin District.
Crime No. 358/2020.

... Respondent/Complainant

Thanasekar

... Petitioner/Intervener/Defacto-Complainant
in CRL MP(MD)No.7116 of 2020 in
CRL OP(MD)No.14188 of 2020

For Petitioner : Mr.Ka.Raamakrishnan,
Advocate.

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

For Intervener : Mr.M.S.Jeyakarthick,
Advocate

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

PRAYER :-

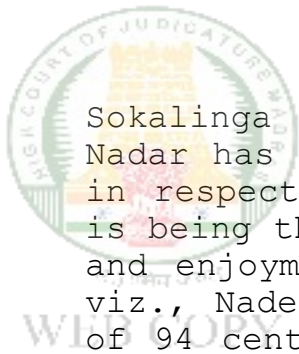
For Anticipatory Bail in Crime No.358 of 2020 on the file of
the Respondent Police

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 420, 465, 448, 427 and 506(ii) of IPC, in Crime No.358 of
2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the subject property
originally belonged to one Samy Nadar and he has two sons viz.,

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

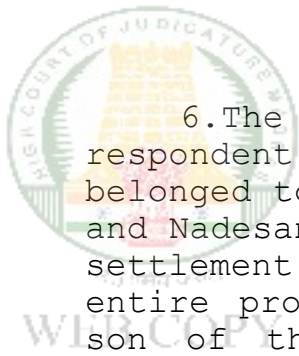


Sokalinga Nadar and Nadesan Nadar. While being so, the said Samy Nadar has executed settlement deed in favour of one Sokalinga Nadar in respect of entire property. Thereafter, the defacto complainant is being the son of the said Sokalinga Nadar and he is in possession and enjoyment of the entire property. While being so, another son viz., Nadesan Nadar has executed settlement deed in respect of 50% of 94 cents in favour of the first accused. Further alleged that the said Nadesan Nadar has absolutely no title over the property, even then executed settlement deed in favour of the first accused. The first accused in turn has executed the settlement deed in favour of A2 through A3. The said portion of the land was sold out to A2 vide registered sale deed dated 17.11.2020. Insofar as the petitioner is concerned, on the instigation of A1 and A2, the petitioner said to have damaged the compound wall and gate in the defacto complainant's property worth about Rs.3 lakhs. Hence, the present complaint.

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

4. The learned counsel appearing for the petitioner submitted that totally there are three accused in this case, in which, the petitioner has been arrayed as A3. Even according to the case of the prosecution, the first accused has executed power of attorney in his favour, in turn, he has executed settlement deed in favour of the third accused. He had absolutely no knowledge whether the first accused's father had title over the property or not. He further submitted that even according to the prosecution, the said Nadesan Nadar had executed settlement deed in favour of the first accused without any title over. In respect of the allegation of damaged the compound wall, the petitioner has no way connected with the said occurrence. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned counsel appearing for the defacto complainant/intervener submitted that the subject property originally owned by his grandfather viz., Samy Nadar and he has executed settlement deed in favour of his one of the son viz., Sokalinga Nadar to an extent of 94 cents. Thereafter, the said Sokalinga Nadar died. After the demise of his grandfather, the defacto complainant and his family members are in possession and enjoyment of the entire property. While being so, another son viz., Nadesan Nadar has executed settlement deed in favour of his son viz., A1 without any title over the property in respect of 47 cents. The first accused, in turn, has executed sale deed in favour A2 through A3. Thereafter, in order to grab the property, the petitioner and other accused persons said to have damaged the compound wall and gate in the defacto complainant's property. Hence, he prayed to dismiss this petition.



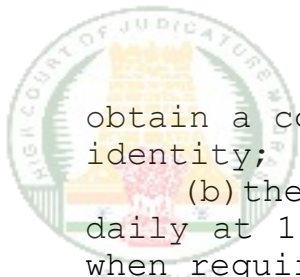
6.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the subject property originally belonged to one Samy Nadar and he has two sons viz., Sokalinga Nadar and Nadesan Nadar. While being so, the said Samy Nadar has executed settlement deed in favour of one Sokalinga Nadar in respect of entire property. Thereafter, the defacto complainant is being the son of the said Sokalinga Nadar and he is in possession and enjoyment of the entire property. While being so, another son viz., Nadesan Nadar has executed settlement deed in respect of 50% of 94 cents in favour of the first accused. Further alleged that the said Nadesan Nadar has absolutely no title over the property, even then executed settlement deed in favour of the first accused. The first accused in turn has executed the settlement deed in favour of A2 through A3. The said portion of the land was sold out to A2 vide registered sale deed dated 17.11.2020. Insofar as the petitioner is concerned, on the instigation of A1 and A2, the petitioner said to have damaged the compound wall and gate in the defacto complainant's property worth about Rs.3 lakhs.

7.On perusal of the materials available on records, it is seen that totally there are three accused in this case, in which, the petitioner has been arrayed as A3. The subject property originally belonged to one Samy Nadar and he has two sons viz., Sokalinga Nadar and Nadesan Nadar and the said Samy Nadar has executed settlement deed in favour of his one of the son viz., Sokalinga Nadar. While being so, another son viz. Nadesan Nadar has executed settlement deed in favour of his son viz., A1 without any title over the property. Thereafter, he died. The first accused had absolutely no knowledge whether the first accused's father had title over the property or not. In respect of the other allegation is concerned, the defacto complainant has made fake and false allegation against the petitioner and others.

8.Considering the facts and circumstances of the case and also considering the fact that The first accused had absolutely no knowledge whether the first accused's father had title over the property or not, 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 learned Judicial Magistrate, Srivaikuntam, Tuticorin District, 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 impressions 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/-

15/12/2020

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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,
SRIVAIKUNTUM, TUTICORIN DISTRICT.

2.-DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.

3. THE INSPECTOR OF POLICE,
KURUMBUR POLICE STATION, TUTICORIN DISTRICT.

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

+1. CC to Mr.M.S.Jeyakarthick, Advocate SR.No.8228

ORDER IN

CRL OP(MD) No.14188 of 2020

Date : 15/12/2020

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<https://hccs.evgs.gov.in/Services/6/01/2021>) 4P / 6C