



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.14749 of 2020

1. Sivakumar
2. Ananth @ Ananthavel
3. Anbuselvan @ Anbu Chezhiyan ... Petitioners/Accused No.4,5 & 6

Vs

The State rep.by,
The Inspector of Police,
ALGSC, Thanjavur DCB Police Station,
Thanjavur District.
Crime No.12 of 2020.

... Respondent/Complainant

For Petitioners: Mr.S.Alagarsamy,
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.12 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A4, 5 and 6, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 423, 465, 466, 467 and 420 I.P.C, in Crime No.12 of 2020 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the subject property is belonging to one Alamelu Managai, who is the wife of the defacto complainant's and she died in the year 2018. While being so, the accused persons joined together and fabricated the death certificate and also legal heir certificate of Alamelu Mangai / defacto complainant's wife, as if, she died in the year 2015 itself. On the strength of the legal heir certificate, the first accused acted as the only legal heir of said Alamelu Mangai and executed power of attorney to A2, in order to create encumbrance over the subject property. Hence, the present complaint.



3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4. The learned counsel for the petitioners would submit that the petitioners are arrayed as A4 to A6 and they are nothing to do with A1 and A2. A1 only acted as a legal heir and executed a power of attorney in favour of A2. He would further submit that in so far as A7 is concerned, who is the document writer, was granted anticipatory bail by this Court. In so far as the petitioners are concerned, they are nothing to do with the crime as alleged by the prosecution. He further submitted that only based on the confession of A1, the petitioners have been falsely implicated in this case. The power of attorney, which was executed by A1 in favour of A2, was cancelled by A2. Hence, he prayed to grant anticipatory bail to the petitioners.

5. The learned Government Advocate appearing for the respondent, on instructions, would submit that there are totally nine accused, in which, the petitioners are arrayed as A4 to A6 and the petitioners herein are acted as master mind behind the entire crime. In respect of subject property, A1 executed a power of attorney in favour of A2 and encumbered the subject property to grab the entire property. Therefore, the Accused No.2 was arrested and remanded to judicial custody. In respect of the other accused are concerned, they are absconding. In respect of the property, which is belonging to the defacto complainant's wife. The defacto complainant's wife was died only in the year 2018, whereas, all the accused persons have fabricated the documents that she was died in the year 2015 and also fabricated the legal heir certificate as if the first accused is the only legal heir of the defacto complainant's wife. On the strength of the legal heir certificate, he executed a power of attorney in favour of A2 in order to encumber the property and grab the property, which is belonging to the defacto complainant's wife.

6. It is seen that the defacto complainant's wife was died only in the year 2018 and they had two sons and the defacto complainant. Even according to the prosecution, the defacto complainant's wife was died only in the year 2018, whereas, all the accused persons have fabricated the documents that she was died in the year 2015 and also fabricated the legal heir certificate as if the first accused is the only legal heir of the defacto complainant's wife. On the strength of the legal heir certificate, he executed a power of attorney in favour of A2 in order to encumber the property and grab the property, which is belonging to the defacto complainant's wife. The power of attorney, which was executed by A1 in favour of A2, was cancelled by A2, even before registering the FIR on 13.07.2020.

7. Considering the facts and circumstances of the case and also <https://hcservices.judg.in/hcservices/> the fact that even before the registering the FIR on



13.07.2020, the power of attorney was cancelled by A2, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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 No.3, Thanjavur, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, out of which, one shall be a blood related surety, 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 daily at 10.30 a.m for a period of two weeks and thereafter, as and when required 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/-
15/12/2020

/ 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 NO.III,
THANJAVUR

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM

3. THE INSPECTOR OF POLICE,
ALGSC, THANJAVUR DCB POLICE STATION,
THANJAVUR DISTRICT.

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

+1. CC to M/S.S.ALAGARSAMY Advocate SR.No.8249

ORDER

IN

CRL OP(MD) No.14749 of 2020

Date :15/12/2020

VSG

PK/SMA/SAR-II/18.12.2020 : 4P/6C