



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/12/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.14798 of 2020

K.Varadharaj

... Petitioner/Accused No.7

Vs

The State Rep. by
Inspector of Police,
DCB, Trichy.
Crime No. 10 of 2020

... Respondent/Complainant

For Petitioner : M/s.Venkatesh Mohanraj, 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.10 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A7, apprehending arrest at the hands of the respondent police for the offences punishable under sections 420, 423, 465, 468, 471 and 34 IPC, in Crime No.10 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that originally the property was owned by first accused. The first accused registered a sale deed in favour of the defacto complainant's Principal. Thereafter, for the very same property, A1 executed a sale deed for the part of the subject property in favour of A2. In turn A2 executed a power of attorney in favour of A7, in respect of part of the property after demise of A1. A4 who is the son of A1, executed a sale deed in favour of A5. Thereafter, A5 executed a sale deed in favour of A8 and A9 and A8 and A9 executed a sale deed in favour of A10. Thereafter, A10 executed a sale deed in favour of A11 in the year 2011. Thereby, they cheated the earlier first vendor in respect of the entire property at measuring to an extent of 1 acre 41 cents. Hence, the case has been registered.



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

4. The learned counsel appearing for the petitioner submitted that as far as the petitioner is concerned, he is arrayed as A7. There are so many transactions made in respect of the disputed property. The petitioner is the one of the purchaser. Therefore, as per the prosecution, the first transaction was held in the year 1980. From that year no dispute arose by the defacto complainant's side. Suddenly, he gave a complaint as against eleven accused. The petitioner is the *bona fide* purchaser and he has no intention to cheat the defacto complainant. He further submitted that in fact A1 and A3 already died, even then the respondent police registered a FIR as against the dead persons. In fact, A11 has purchased the property in the year 2011. Therefore, custodial interrogation of the petitioner does not require in this case and all the allegations are civil in nature. Hence, he prayed to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that originally the property measuring to an extent of 1 acre 41 cents was owned by A1. Thereafter, he executed a power of attorney in favour of the defacto complainant. While being so, he conspired with the other accused and created encumbrance for the very same property for the entire property and created so many sale deeds. Therefore, the custodial interrogation of the petitioner is also necessary in this case and this petition is the second anticipatory bail petition. Hence, he strongly opposed to grant anticipatory bail to the petitioner.

6. It is seen that there are totally twelve accused, in which, the petitioner is arrayed as A7. As pointed out by the learned counsel for the petitioner, the respondent has registered the case as against the death persons namely, A1 and A3. The transaction took place in the year 1980 by way of registered sale deed in favour of the Principal of the defacto complainant herein. Thereafter, the first accused namely Manidass executed a sale deed in favour of A2 in respect of a part of the property. After demise of A1, A4 who is the son of A1, executed a sale deed in favour of A5. Thereafter, A5 executed a sale deed in favour of A8 and A9. Thereafter, A8 and A9 executed a sale deed in favour of A10. Thereafter, A10 executed a sale deed in favour of A11 in the year 2011. The nature of the property is vacant land. Therefore, nobody is in possession of the property while selling, the property one after other.

7. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



8. 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 No.II, Trichirapalli, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two blood related 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 at 10.00 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/-
16/12/2020

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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 No.II,
TIRUCHIRAPPALLI DISTRICT.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3. THE INSPECTOR OF POLICE,
DCB, TRICHY.

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

ORDER

IN

CRL OP (MD) No.14798 of 2020

Date :16/12/2020

LS

TE/SMA/SAR-III : 22/12/2020 : 4P/5C