



WEB COPY

CRL OP(MD). No.19398 of 2019 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/02/2020

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.19398 of 2019 and
CRL.O.P. (MD)NO.856 of 2020

CRL.O.P. (MD)No.19398 of 2019;

G.Maharajan

... Petitioner/Accused No.6

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli Distirct.
(In Crime No.39/2019)

... Respondent/Complainant

V.S.Velayutham

... Petitioner/ Intervener/
Informant

For Petitioner : M/s.G.Anto Prince
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

For Intervenor : Mr.N.Dilipkumar, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No. 39/2019 on the file of the
Respondent Police.

CRL.O.P. (MD)No.856 of 2020:

The State rep. by,
The Inspector of Police,
DCB, Tirunelveli.

... Petitioner/Respondent

Vs

Maruthathal

... Respondent/Petitioner

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



For Petitioner : M/s.A.Robinson,
Government Advocate(Crl.Side).

For Respondent : Mr.R.Anand, Advocate

PETITION FOR CANCELLATION OF BAIL Under Sec.439(2) of Cr.P.C

PRAYER :-

For canceling the bail granted to the respondent/petitioner in Cr.M.P.No.716 of 2019 dated 06.12.2019 on the file of the Judicial Magistrate Court No.II, Special Court for Land Grabbing Cases, Tirunelveli.

COMMON ORDER : The Court made the following order :-

The case on hand pertains to 2.53 Acres of land in Survey No.172/1 in Sankarankovil Village, Tirunelveli. V.S.Velayutham gave a complaint before the District Crime Branch, Tirunelveli, alleging the commission of offences under Sections 423, 465, 468, 471, 420 and 120(B) of I.P.C. His complaint was registered as Crime No.39 of 2019. One Velsamy was shown as the first accused while his wife Maruthathal was shown as the second accused. Maruthathal was arrested on 02.12.2019. By order dated 06.12.2019 in Crl.M.P.716 of 2019, she was granted bail by the Judicial Magistrate No.II, Special Court for Land and Anti Grabbing cases, Tirunelveli. Her brother Maharajan has been implicated as the sixth accused in this case. He has filed Crl.O.P.(MD)No.19398 of 2019 seeking anticipatory bail before this Court. For cancelling the bail granted in favour of Maruthathal, Crl.O.P.(MD)No.856 of 2020 has been filed.

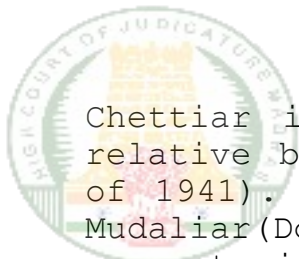
2. Heard the learned counsel on either side.

3. This Court directed the parties to appear before the investigation officer and the investigation officer was also directed to file a status report.

4. The learned Government Advocate(Crl. Side) has filed a status report that was made ready by the investigation officer.

5. The specific case of the defacto complainant is that the property in question originally belonged to one Madasamy Chettiar. The said Madasamy Chettiar had three sons, namely, Perumal Chettiar, Sankaran Chettiar and Sappani Chettiar. There was a partition among them(Document No.1616 of 1939). Vide document No.1616/1939 dated 09.10.1939, the property in question was allotted in two halves to Perumal Chettiar and Sankaran Chettiar.

6. The defacto complainant's counsel would contend that in this partition deed, Sappani Chettiar was not allotted the property in question. While so, Perumal Chettiar conveyed the share allotted to him to one Sankaran Mudaliar vide document No.1157 of 1946. Sankaran



Chettiar in turn had sold the property in question to his close relative by name Pazhaniyachi Ammal on 25.08.1941(Document No.1274 of 1941). Pazhaniyazhi Ammal in turn sold the property to Subbiah Mudaliar(Document No.1158 of 1946). Since Subbiyah Mudaliar got the property in question from two vendors, namely, Perumal Chettiar and Pazhaniyachi Ammal, he became the absolute owner of the entire extent of 2.53 Acres in Survey No.172/1. It is further seen that Subbiya Mudaliar gave the property by a sale deed dated 18.12.1950 in favour of one Sankaranarayana Mudaliar(document No.2464 of 1950). From the encumbrance certificate, it is not evident that Sankaranarayana Mudaliar sold the property in question to any third party. While so, the specific allegation of the defacto complainant is that the accused herein have fabricated the documents in order to grab the property in question. The first accused herein had executed a settlement deed dated 13.03.2015 in favour of accused No.2 his wife Maruthathal. Based on the same, mutations appears to have been made in the revenue records. Maruthathal had also executed a mortgage which was later cancelled.

7. I posed a specific question to the learned counsel appearing for Maruthathal regarding the title-basis of her settlor, namely, Maruthathal's husband Velusamy. The learned counsel would contend that Velsamy accused No.1 in this case purchased the property vide sale deed dated 23.03.1989 from Sappani Chettiar. The learned counsel appearing for the defacto complainant would strongly question the genuineness of the said document. This Court wanted to know if this was a registered document. The answer is that the title deed dated 23.03.1989 is an unregistered document.

8. The learned counsel for Maharajan would claim that he is the brother of Maruthathal and he has nothing to do with the transaction in question and that therefore he wanted this Court to grant him anticipatory bail.

9. After carefully considering the rival contentions and also particularly, the status report, I observe that Maharajan cannot claim to be a third party. In paragraph No.9 of the status report, it has been mentioned that encumbrance certificate in respect of the property was applied by Maharajan and he is none other than the brother of Maruthathal. After Maruthathal was arrested, her confession clearly revealed the involvement of Maharajan. In this case, certain disturbing facts have also been highlighted by the learned Government Advocate. The investigation officer had come across revenue records reflecting the name of Maruthathal in the year 2013 itself. Even according to the accused, accused No.1 executed a settlement deed in favour of Maruthathal only on 13.03.2015. But then, in the Taluk Office revenue record, the name of Maruthathal had already been interpolated. The learned counsel appearing for the defacto complainant states that in the partition deed, dated 09.10.1939 vide document No.1616 of 1939, Sappani



to him, the names of Vellaiyan Chettiar and Avudaiyappan Chettiar mentioned in 'A' Register are that of the brothers of Madasamy Chettiar.

10. His specific allegation is that accused No.1 Velsamy and accused No.6 Maharajan have conspired together and have been creating one document after another. I am *prima facie* satisfied that certain Government records have also been tampered with. The investigation is still pending. Accused No.1 Velsamy is still absconding. Therefore, the issue calls for a deeper investigation. Therefore, I am of the view that it is not safe to grant anticipatory bail to Maharajan. At the same time, I am of the view that Maruthathal must have been a plaything at the hands of her husband.

11. In this view of the matter, while dismissing CrI.O.P.(MD) No.856 of 2020, I dismiss CrI.O.P.(MD) No.19398 of 2019 also.

sd/-
26/02/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUNELVELI,
TIRUNELVELI DISTRICT.

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

+1CC TO M/s.G.Anto Prince, Advocate, SR NO.8546

+1CC TO Mr.N.Dilipkumar, Advocate, SR NO.4156

ORDER
IN
CRL OP(MD) No.19398 of 2019
and
CRL.O.P.(MD) NO.856 of 2020
Date :26/02/2020

MS/VR/SAR-2/09.03.2020/4P.5C