

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.Nos.3812 and 3953 of 2021

1. R.P.Dharmalingam @ A.R.Dharmalingam

2. V.S.Shankar ... Petitioners in Crl.O.P.No.3812 of 2021

D.Sangupathi ... Petitioner in Crl.O.P.No.3953 of 2021

-Vs-

The State rep by

Inspector of Police,

M-1, Madhavaram Police Station,

Tiruvallur District.

(C.R.No.42 of 2021)

... Respondent in both Crl.O.Ps

Prayer: Criminal Original Petitions filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest in C.R.No.42 of 2021 is pending on the file of the respondent police.

For Petitioners : Mr.A.Ramesh, Senior Counsel
(in both petitions) For Mr.D.Saikumaran

For Respondent : Mr.S.Karthikeyan
(in both petitions) Additional Public Prosecutor

COMMON ORDER

These cases have been heard through video conference

The petitioners, who apprehend arrest for the alleged offences under Sections 420, 468, 506(2) r/w 34 IPC, in C.R.No.42 of 2021, on the file of the respondent/Police, seek anticipatory bail.

2.The case of the prosecution is that, the petitioners herein claiming to be the owners of a Property in Madhavaram, and entered into a sale agreement with the defacto complainant and received a sum of Rs.1,31,84,400/- and failed to execute a sale deed. Thereafter, the defacto complainant came to know that the property originally belongs to one Venugopal and he expired on 02.06.2003, and the petitioners created a fake Power of attorney and cheated him. Hence, the complaint was filed. The above said complaint was not registered by the police, hence the defacto complainant approached the District Munsif cum Judicial Magistrate, Madhavaram had filed a petition under Section 156(3) of Cr.P.C and obtained a direction to register the complaint, subsequently the present complaint came to be registered.

3.Mr.A.Ramesh, Senior counsel for Mr.D.Saikumaran, the learned counsel appearing for the petitioners would submit that this is the 3rd complaint, already there are two similar complaints have been filed by the defacto complainant. The first complaint was registered by the Madhavaram Police Station in Crime No.139 of 2019 and after investigation that the complaint has been closed as mistake of fact in the year 2019 itself. Thereafter, the defacto complainant given an another complaint before the Central Crime Branch, and the complaint was treated as CSR, enquiry was conducted and after enquiry it was found that civil dispute is involved and directed the parties to approach the appropriate civil court. Once again, the present complaint has been filed by the defacto complainant. He would submit that the petitioners are innocent persons and they are no way connected with this crime and they have been falsely implicated in this case. He would further submit that there is no previous case pending as against the petitioners. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor would submit that this is the third complaint, earlier two complaints are closed as mistake of fact and produce the copy of the order. He would further submit that there is no previous case pending as against the petitioners, However, opposed for grant of anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case, it is seen that the defacto complainant on earlier occasion filed the complaints raising the similar allegations which was registered in Crime No.139 of 2019 by the Madhavaram Police Station and the same was closed as mistake of fact and another complaint filed before the Central Crime Branch wherein enquiry was conducted and the same was also closed. This is the third complaint on the same allegations. Considering those circumstances, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the District Munsif cum Judicial Magistrate, Madhavaram, on condition that the petitioners shall execute a separate 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix his 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 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petitions are ordered.

-sd/-

11/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, MADHAVARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M-1, MADHAVARAM POLICE STATION,
TIRUVALUR DISTRICT.

+2CC to M/S.D.SAIKUMARRAN Advocate on payment of necessary
charges SR NOS.3224, 3225

CRL.OP.NOS.3812 & 3953 OF 2021

Date :11/03/2021

MK:26/03/2021



WEB COPY