

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.7359 of 2021

G.Venkatesan

... Petitioner

Vs.

The Inspector of Police,
Walajapet Police Station,
Ranipet District.
(Crime No.46 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 438 of Cr.P.C prayed to enlarge petitioner on bail in the event of his arrest from the hands of the respondent in Crime No.46 of 2021.

For Petitioner : Mr.K.Venkatasubban

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

The petitioner, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 427, 468, 471 and 420 of IPC in Crime No.46 of 2021 seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the sister of one G.Ramesh and he has given Power of Attorney to her to govern his property. The defacto complainant's brother had purchased 93 cents of lands comprised in Survey Nos.774/3C1, 774/3C2, 774/3C3 and 774/3C4 of Vannivedu Village from one Suguna, Dilli Babu, Rani and Shanthi by a registered sale deed vide Document No.3014/2015. The petitioners have forcibly entered into the alleged land and also stolen Rs.4 lakhs worth of construction materials. The District Registrar verified the documents of both parties and on 29.09.2020 passed an order in the favour of the defacto complainant's brother. Thereafter, the defacto complainant has filed the present complaint against the petitioner herein.

3.The learned counsel appearing for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that one Subramani had executed a will dated 10.03.2003 in favour of the petitioner and his brother G.Krishnasamy.

As per the will, the property situated in SF.Nos2182 and 2188 measuring an extent of 81¼ cents and out of 1.20 acres in SF.No.774/3C 0.50 cents was bequeathed to the petitioner and the remaining 0.70 cents was bequeathed to petitioner's brother G.Krishnasamy. Without having any right over the above said properties, one Thiagarajan and the legal heirs of Ranganathan created a partition deed dated 21.08.2014 among themselves with the above mentioned properties with an intention to grab the properties belonging to the petitioner. On coming to know the same, the petitioner herein had filed a suit before the lower court. He further submits that pending suit, the said Thiagarajan and the legal heirs of Ranganathan alienated the properties in favour of one Ramesh. He further submits that the issue involved in the complaint given by the defacto complainant is purely civil in nature and is already seized of by the Courts, viz., Additional District and Sessions Court, Ranipet in O.S.No.83 of 2019 and District Munsif Court, Walajapet in OS.No.45 of 2015 and O.S.No.60 of 2020 . The vendor/defacto complainant's brother viz., Ramesh did not have any title over the above mentioned properties and they have fraudulently created a sale deed and mutated the patta and revenue records. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) submits that due to civil dispute between the petitioner and the defacto complainant's brother, three civil suits are pending before the competent courts.

5.Considering the facts and circumstances of the case and that the matter being purely civil in nature for which three civil suits are pending before the competent courts, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the **learned Judicial Magistrate II, Wallajah** 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 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 Court concerned 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 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
23/06/2021

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 JUDICIAL MAGISTRATE,
NO.II, WALLAJAH.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WALAJAH POLICE STATION,
WALAJAH,
RANIPET DISTRICT.

+1 CC to M/S.SARVABHAUMAN ASSOCIATES Advocate on payment of necessary charges SR.NO.6736

CRL OP.7359/2021

Date :23/06/2021