

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.14741 of 2020

S.IQBAL

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
TEAM-23, ALGSC-II,
CCB, EGMORE, CHENNAI.

For Petitioner : M/S.V.P.SENGOTTUVEL Advocate

For Respondent : M/S.K.PRABAKAR Additional Public Prosecutor

For Intervenor : M/S.S.JANARTHANAN Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 465, 467, 468, 471 and 420 of I.P.C in Cr.No.71 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with the other accused is said to have created a fabricated patta and thereby cheated the defacto complainant as if he is the owner of the alleged property and he is interfering with the peaceful possession and enjoyment of the defacto complainant property. Hence the complaint.

3.The learned counsel appearing for the petitioner submits that the petitioner is arrayed as A1. It is further stated that the petitioner purchased the alleged property vide a sale deed dated 12.08.2010 and subsequently mutate the revenue records in his name and thereafter, he filed O.S.No.13218 of 2010 on the file of XV Assistant Judge, City Civil Court praying for permanent injunction from interfering with his possession restraining the defacto complainant and the suit is still pending. As a counter blast, instead of filing the suit for cancellation of the alleged sale deed, the defacto complainant filed in C.S.No.194 of 2011 for the relief of injunction before this Court and the same is pending for adjudication. Pending

the civil dispute, the defacto complainant filed a false complaint against the petitioner. He further submitted that A2 approached this Court in Crl.O.P.No.13280 of 2020 to quash the FIR and the same was allowed by this Court on 01.03.2021. He further submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned counsel for the Intervenor submitted that the petitioner has fabricated the document conniving with the other accused and created patta and he is interfering with peaceful possession and enjoyment of the defacto complainant's property.

5. The learned Government Advocate (Criminal Side) submitted that there is civil dispute between the petitioner and the defacto complainant and the same is pending. Pending the suit, the present complaint has been lodged against the petitioner and the investigation is still underway.

6. Taking into consideration the submission made by the learned counsel on either side and that there are civil disputes pending before the competent civil forum and further the co-accused/A2 already approached this Court to quash the FIR in Crl.O.P.No.13280 of 2020 and the same was quashed on 01.03.2021, this Court is inclined to grant anticipatory bail to the petitioner with some stringent conditions.

7. Accordingly, the petitioner shall be released on bail in the event of arrest or on his surrender before the Metropolitan Magistrate, ALGSC-II at Egmore, Chennai and on further 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, failing which, the petition for anticipatory bail shall stand dismissed 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 not interfere with the defacto complainant property except due process of law.

(c) the petitioner shall report before the respondent police as and when required for interrogation;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
08/04/2021

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 METROPOLITAN MAGISTRATE,
ALGSC-II, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
TEAM-23, ALGSC-II, CCB,
EGMORE, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S V.P.SENGOTTUVEL Advocate on payment of necessary charges

CRL OP.14741/2020

Date :08/04/2021

MN-13/05/2021