

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.13028 of 2021

1.K.Srinivasan

2.M.G.Shekar

...Petitioners

Versus

The State rep by its
The Inspector of Police,
City Crime Branch
Tiruppur District
(Crime No.10 of 2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of their arrest by the Respondent Police pending investigation in Crime No.10 of 2021 on the file of the respondent Police.

For Petitioner : Mr.S.Manuraj

For Respondent : Mr.C.E. Pratap

Government Advocate (Crl. Side)

Mr.Elango for Intervenor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406, 420 and 34 IPC in Crime No.10 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A-1 is the husband, who owns a property to an extent of 1.64 cent and since the property was brought for auction, A-1 and her husband approached the de-facto complainant and borrowed a sum of Rs.1,18,80,000/- and agreed to execute a sale deed in favour of the defacto complainant and handed over the entire original documents. The husband of A-1 died in the year 2017 and thereafter, A-1 preferred a complaint as if the original documents were lost and obtained a non traceable certificate and after obtaining the said certificate, A-1 sold the property in favour of the petitioners and thereby encumber the property and hence, a complaint has been lodged by the defacto complainant.

3.The learned counsel appearing for the petitioner submitted

that the petitioner are A2 and A3 purchased the property after verifying the encumbrance certificate in the Sub Registrar's Office, the petitioners purchased the property.

4.The learned Government Advocate (Crl.Side) submitted that the investigation is pending.

5.The learned counsel for the intervenor submitted that the defacto complainant has parted a huge sum of Rs.81 lakhs to the husband of A-1 in order to retrieve the property, which was brought for auction and suppressing these facts, the petitioner and other accused persons encumber the property and hence. he opposed for granting anticipatory bail to the petitioners.

6.Considering facts and circumstances of the case and considering the submission made by the learned counsel for the petitioners that the petitioners are subsequent purchasers, they purchased the property after verifying the encumbrance certificate, 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 of receipt of a copy of this order, before the Judicial Magistrate, No.III, Tiruppur , on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand Only), each 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) if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) 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;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required;

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

(e)the petitioners 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 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]***; and;

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

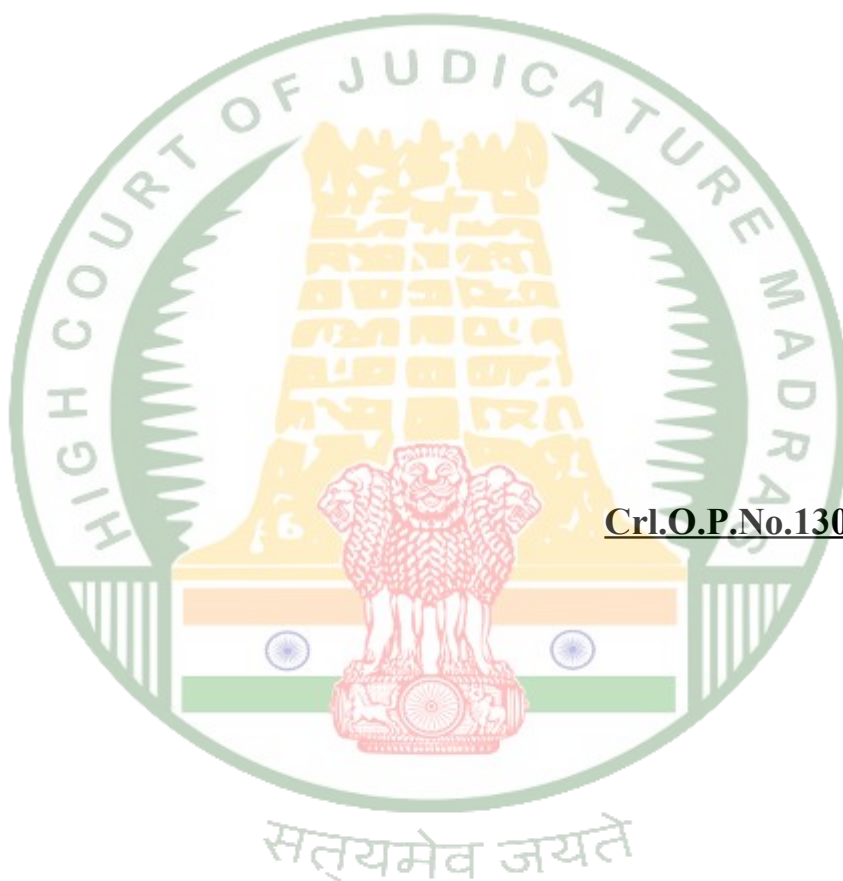
7. In the result, this Criminal Original Petition is ordered.

29.07.2021

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M.DHANDAPANI,J.
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