



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.16232 of 2020

1 C.MUTHUKUMARAN
2 REENA

[PETITIONERS / ACCUSED]

Vs

STATE REP BY,
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH(ALGSC) ,
THIRUVALLUR.
(CRIME NO.17/2020)

[RESPONDENT]

For Petitioner : M/S.R.RAJASEKARAN Advocate

For Respondent : MR.S.KARTHIKEYAN, Additional Public Prosecutor
(Crl.Side)

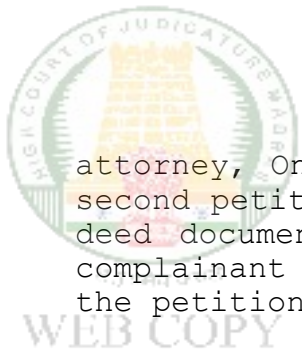
For Intervenor : MR. G.BALASUBRAMANIAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for an offence under Sections 417, 419, 420, 468 and 471 of IPC in Crime No.17 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are husband and wife. The defacto complainant is residing in USA and he purchased the plot No.15, to the extent of 2100 sq. ft. in Prakash Nagar, Melnallathur Village, Thiruvallur on 27.12.2000 from one Mr.Sugavanam, S/o.Krishnasamy and the same was registered as Document No.2211/2000 in the office of the Sub Registrar, Thiruvallur and he obtained patta and enjoyed the same. When he tried to put a fence in the said plot, he found that one Muthukumaran along with one Syed Ahmed prepared a fake power of attorney for his plot in his name vide document no.3083 of 2016 dated 17.10.2016. Using the fake power of



attorney, One Syed Ahmed sold the above said subject property to the second petitioner, who is the wife of the first petitioner, vide sale deed document No.3269 of 2018 dated 01.10.2018. Hence, the defacto complainant lodged a complaint before the respondent police against the petitioners and other accused person.

3.The learned counsel for the petitioners submitted that a false case has been foisted against these petitioners and they have nothing to do with the alleged offence. The learned counsel further submitted that an undertaking affidavit has been filed by the petitioners. Hence, the counsel prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl. side) submitted that originally, the property was owned by the defacto complainant and A1 and other accused persons impersonated A1 as defacto complainant and created a fake power of attorney infavour of A1 and the same was sold in favour of A3. However, investigation is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. The petitioners has filed an undertaking affidavit dated 08.03.2021. The relevant portions are extracted hereunder:

'2. I state that the defacto complainant Mr.Hasanulla Sakib alleges that his son Mr.Syed Nisar Ahamed is residing in Seattle, USA and he purchased the plot No.15, having an extent of 2100 sq. ft. in Prakash Nagar, Melnallthur Village, Thiruvallur on 27.12.2000 from one Mr.Sugavanam and the same was registered as Document No.2211/2000in the Sub-Registrar Office, Thiruvallur. He obtained patta and enjoyed the same. Subsequently, a broker sivakumar approached the petitioners and said that the owner was willing to sell the property and he brought one person, who claimed that he was syed Nisar Ahamed and through the said broker he received sale amount and executed a registered power of attorney having Doc. No.3085 of 2016 before the Registrar of Thiruvallur and handled over all the original documents. (After complaint, I came to find out that those documents have been taken out from color xerox machine).

3. I state that I do not know that the vendor is a fictitious person and executed a fake power of attorney and I conceyed the property on the basis of power of attorney deed to my wife (the second petitioner herein) and that she conveyed it to one Mr.govindarajan. Once I have the knowledge about the forgery document arranged by broker sivakumar, at once, I conveyed a property stands in the name of my sister to the purchaser Govindarajan on 09.06.2020 who undertook to cancel the sale deed in connection with the complainant property after receiving the balance amount of Rs.5,28,000/- In the meantime, the above complaint was registered on 16.03.2020. So, the petitioners moved anticipatory bail and interim bail was gntated to the second petitioner to clear the encumbrance. I further state that subsequently, my wife (the second petitioner) cancelled the sale deed executed by me in favour of her on 05.10.2020 through a registered deed. After receiving the balance consideration



amount, on 19.10.2020, the subsequent purchaser Govindarajan also cancelled the sale deed executed by my wife in favour of him. As on date, absolutely no encumbrance upon the said property and we including subsequent purchaser have recall all the rights and title upon the complainant's property. The power of attorney deed also becomes invalid being a fake and forged.

4. I further hereby declare that I will not claim any right or title upon the complainant's property relied upon the fake power of attorney deed dated 17.10.2016 at any point of time in future.''

6. Taking into consideration the facts and circumstances of the case and that an undertaking affidavit has been filed by the petitioners 1 & 2/A2 & A3, this Court is inclined to grant anticipatory bail to the petitioners subject to the following 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 learned Judicial Magistrate-II, Thiruvallur District, on condition that the petitioners shall execute individual 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 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 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 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;

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



7. With the above directions, this Criminal Original Petition is allowed.

-sd/-

16/04/2021

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 JUDICIAL MAGISTRATE-II,
THIRUVALLUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH (ALGSC),
THIRUVALLUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.R.RAJASEKARAN Advocate on payment of necessary charges

CRL OP.16232/2020

Date :16/04/2021

CSK 13/09/2021