

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.16996 of 2020

K.Gopalakrishnan

... Petitioner

-Vs-

The State Rep. by its
The Inspector of Police,
Velampalayam Police Station,
Tiruppur City.
(Crime No.1367 of 2020)

.... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of his arrest in Crime No.1367 of 2020 on the file of respondent police.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The case has been heard through video conference

The petitioner, who apprehends arrest at the hands of the respondent Police for the alleged offence punishable under Sections 467, 468, 471, 417 and 420 of IPC, in Crime No.1367 of 2020, seeks anticipatory bail.

2. The case of prosecution is that A1 is the sister's husband of the defacto complainant and A2 is son of A1. A3 is the Doctor. A4 and A5 are attestors and A6 is the document writer. The allegation is that the property in dispute is an ancestral property and both wife of A1 and the defacto complainant are entitled for share and a partition suit is also pending in a civil court. Pending suit, A1 and A2 using the power of attorney said to have executed by the defacto complainant long back, in favour of A1, obtained a bogus life certificate, that was issued by the 3rd accused, has sold the property in favour of A2. Hence, the criminal case has been registered against the petitioner and now, apprehending arrest, he has filed this petition seeking for anticipatory bail.

3. The learned Counsel for the petitioner submitted that, a civil suit is pending with respect to some of the ancestral property. Now, admittedly, the defacto complainant has given a power of attorney in favour of A1, which is still in force and so far, he has not cancelled the same. It is also the fact that by virtue of power of attorney, he has sold the ancestral property in favour of A6, wherein the property has been transferred in respect of share of A1's wife. Hence, there is no illegality in it. Therefore, he prayed to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that totally, there are six accused and the petitioner is arrayed as A3. He would submit that a power of attorney has been given by the defacto complainant long back, using the same the transfer was effected by a fake life certificate, and opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case, and the relationship between the parties, it is also stated that the property has been transferred by means of power of attorney executed by the defacto complainant, which was in force, and considering the fact that a civil suit is pending between the parties, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:-

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.III, Tiruppur on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] the sureties shall affix their 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;

[c] the petitioner shall appear 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];

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
22/03/2021

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 JUDICIAL MAGISTRATE,
NO.III, TIRUPPUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VELAMPALAYAM POLICE STATION,
TIRUPPUR DISTRICT.

CC to M/S.K.MYILSAMY Advocate on payment of necessary charges
SR.NO. 2671

WEB COPY

CRL OP.16996/2020

Date :22/03/2021

rvr 01/04/2021