



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.25198 of 2021

WEB COPY

1. Kumar
2. Kumaresan
3. Selvakumar
4. Thangavel
5. Mahalingam
6. Krishnan

... Petitioners

Versus

State Rep by
The Inspector of Police
City Crime Branch,
Salem.
(Crime No.2 of 2021)

... Respondent

Prayer:-Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure seeking to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No.2 of 2021 pending investigation on the file of the respondent police.

For Petitioners : M/S.B.Kumarasamy

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

Order

The petitioners, who apprehend arrest for the alleged offences under Section 120(B), 416, 471, 420 & 506(i) of IPC in Cr.No.2 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the original land holder of the agricultural land measuring 2.29 Acres and suddenly ten unknown persons trespassed the land and insisted the defacto complainant to evict the land and threatened with dire consequences. When the defacto complainant verified the status of the above land, he came to know that a sale deed was illegally executed in favour of one Govindaraj and 9 others. Hence,



the defacto complainant registered a complaint against the petitioners and other accused persons. It is the further case of the prosecution is that the land measuring 2.29 Acres belonged to on late Pappammal who is the grand mother of the said Govindaraj and mother of the defacto complainant. Based on the unregistered will, the said Govindaraj claimed the property to be his own suppressing the fact of the settlement deed which has already been executed in favour of defacto complainant from enjoying the property and threatened the defacto complainant with dire consequences. Hence, the complaint.

3.The learned counsel appearing for the petitioners submit that the petitioners have not committed any offence as alleged by the prosecution. He further submitted that the very same issue is pending in O.S.No.129 of 2010 and the ex-parte injunction is granted against the defacto complainant and also the petition filed by the defacto complainant to set the ex-parte injunction was also dismissed. He further submitted that a settlement deed was executed by the late Pappammal in favour of her daughter Rajammal. Hence, the learned counsel prays to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.side) submits that the case is pending before the District Crime Branch and he vehemently opposed for granting anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case and since a civil suit is already pending between the parties where all are family members, 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 learned Judicial Magistrate No.6, Salem 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)the petitioners 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 petitioners are directed to appear before the Inspector of Police, District Crime Branch, Salem on every Wednesday at 10.30 a.m. for a period of four weeks and thereafter, 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners released on anticipatory 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/-

22/12/2021

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.VI, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH,
SALEM DISTRICT.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
SALEM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S B.KUMARASAMY Advocate on payment of necessary charges SR.NO.15429

CRL OP.25198/2021

Date :22/12/2021

RW 03/01/2022