

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.34865 of 2019 &

2334 of 2020

N.Sivaprakash ... Petitioner in Crl.O.P.  
No.34865 of 2019

M.Chalapathi ... Petitioner in Crl.O.P.  
No.2334 of 2020

Vs.

The State rep. By its ... Respondent in  
Assistant Commissioner of Police, Crl.O.P.No.34865 of 2019  
EDF-I, Forgery Wing,  
Central Crime Branch,  
Chennai District  
(Crime No.287 of 2019)

The State Rep. by ... Respondent in  
The Assistant Commissioner of Police, Crl.O.P.No.2334 of 2020  
Central Crime Branch-I,  
Vepery,  
Chennai-600 007  
(Crime No.287 of 2019)

PRAYER in Crl.O.P.No.34865 of 2019: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail, in the event of his arrest in Crime No.287 of 2019 on the file of the respondent police.

PRAYER in Crl.O.P.No.2334 of 2020: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge him on bail in the event of arrest by the Respondent police in Crime No.287 of 2019 on the file of the Respondent, Central Crime Branch-I, Vepery, Chennai-600 007.

For Petitioner in Crl.O.P.No.34865 of 2019 : Mr.R.Rajarathinam

For Petitioner in Crl.O.P.no.2334 of 2020 : Mr.Om Prakash for  
Mr.G.Jayachandran

For Respondent (in both Ops) : Mr.S.Karthikeyan  
Addl. Public Prosecutor

## ORDER

**(The case has been heard through video conference)**

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 419, 420, 465, 468, 471 and 34 of IPC in Crime No.287 of 2019, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are ranked as A3 and A5. The allegation is that the defacto complainant purchased a land to an extent of 1.5 acres from one Saroja Ammal and S.R.Thulukanam through power of attorney agent V.Ponnusamy and thereafter, he filed a suit in O.S.No.181 of 2011 on the file of Sub Court, Tambaram. Subsequently, the sale deed executed in his favour on 20.12.2013. The accused herein who said to have purchased the property from one Krishnan who was the power of attorney of the said Saroja Ammal in the year 1992 and based on the said sale deed, they encroached the property. Hence, the present complaint.

3. Mr.Om Prakash, the learned senior counsel for the petitioner / A5 submitted that the petitioner has purchased the property from the original owner namely Saroja Ammal in the year 1994 through the registered sale deed. Thereafter, the said property has been sold to various persons and the purchasers are also in occupation of the property. In the mean time, the defacto complainant said to have filed a civil suit, for specific performance, based on a alleged sale agreement, said to have executed by one V.Ponnusamy, power of attorney of Thulukanam and Saroja Ammal, filed a civil suit for specific performance in the year 2011. It is found that the Principals, namely Thulukkanam and Saroja Ammal died in the year 1999 and 2009 itself, and the defacto complainant filed a suit against the dead persons and obtained exparte decree based on a fabricated power of attorney. Subsequently, he filed E.P.No.157 of 2013 and got a sale deed in his favour through Court. Based on the said sale deed, he is trying to interfere with the possession of the petitioners who have purchased from the original owner in the year 1994 itself. Mr.R.Rajarathinam, the learned counsel for the petitioner/A3 would also submit that the petitioner/A3 purchased the property long ago, i.e. in the year 2004 by way of sale deed dated 04.02.2004. He would also submit that the petitioner/A3 is a bona fide purchaser in respect of the alleged property.

4.The learned Additional Public Prosecutor appearing for the State would submit that the defacto complainant had got a decree against the original owner of the property and got a sale deed through the Court, now the petitioners also claiming right over title in respect of the property based on the sale deeds. He would further submit that Section 41 A Cr.P.C. Notice has been issued to the petitioners directing them to appear for enquiry and the enquiry has been conducted.

5. Heard Mr.V.Vijayakumar learned counsel for the Intervenor.

6. Considered the rival submissions of the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

7. On perusal of the record, it would be seen that the petitioners had purchased the property from 1994 and subsequently there are various persons have been purchased the said property. Admittedly, the defacto complainant filed a suit only in the year 2011 against the dead person and obtained the decree. Based on that, the present complaint has been filed. It is also seen from the records that the petitioners are in possession of the property. Taking into consideration the nature of offence, and also taking note of the fact that the suit was filed against the dead person and that the petitioners are also claiming title over the property by means of another sale deed, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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 on which the order copy is made ready, before the learned Metropolitan Magistrate for CCB and CBCID Cases at Egmore, Chennai (insofar as A3 is concerned) and insofar as A5 is concerned, before the learned Judicial Magistrate, at Alandur, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- each (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 petitioners and 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.

**[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 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

21/01/2021

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  
FOR CCB AND CBCID CASES AT EGMORE, CHENNAI.

2 THE CHEIF METRTOPOLITAN MAGISTRATE,  
EGMORE[FOR INFORMATION].

3 THE JUDICIAL MAGISTRATE,  
ALANDUR.

4 THE CHIEF JUDICIAL MAGISTRATE  
CHENGALPET [FOR INFORMATION].

5 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

6 THE ASSISTANT COMMISSIONER OF POLICE,  
EDF-I, FORGERY WING,  
CENTRAL CRIME BRANCH,CHENNAI DISTRICT,

7 THE ASSISTANT COMMISSIONER OF POLICE,  
CENTRAL CRIME BRANCH-I,VEPERY,  
CHENNAI-600 007.

+1 CC to M/S.R.RAJARATHINAM Advocate on payment of necessary charges SR NO. 675

+1 CC to M/S.G.JAYACHANDRAN Advocate on payment of necessary charges

CRL OP.34865/2019 & 2334/2020

Date :21/01/2021