



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.790 of 2021

John Peter

... Petitioner/Accused No.1

Vs

State rep.by
The Inspector of Police,
City Crime Branch,
Tirunelveli City.
Crime No. 43 of 2020.

... Respondent/Complainant

For Petitioner : Mr.S.Velrajan,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Cr.No.43 of 2020 on the file of the respondent police.

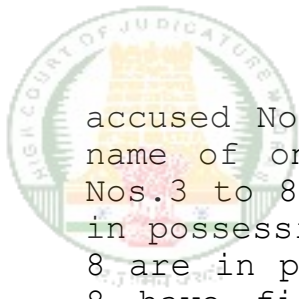
ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under sections 420, 120(B), 465, 467, 468 and 471 of IPC., in Crime No.43 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that in the year 1977, the petitioner and his brothers purchased the property from one Sivakamiammal, who is the grandmother of the accused Nos.3 to 8. Thereafter, accused Nos.3 to 8 colluded with other accused, without any title over the said property executed General Power of Attorney in favour of accused No.1 and on the strength of power, accused No.1 executed sale deed in favour of accused No.2 with the help of accused No.9. Hence, the complaint.

3.The learned counsel appearing for the petitioner submitted that the petitioner only acts as the Power of Attorney of the

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accused Nos.3 to 8. The disputed property originally stands in the name of one Sivakamiammal, who is the grandmother of the accused Nos.3 to 8. After her demise, her daughter viz., Thirumalammal, was in possession and enjoyed the property. Thereafter, accused Nos.3 to 8 are in possession and enjoyment of the same. The accused Nos.3 to 8 have filed a suit in O.S.No.130 of 2020 before the Principal District Court, Tirunelveli, to declare the document in Document No.1293 of 1977 before the Sub-Registrar, Palayamkottai is null and void and knowing about the same, the defacto complainant and his brothers lodged a false complaint against the petitioner and the other accused. He further submitted A9, who is the Sub Registrar filed a petition to quash the proceedings in Crl.O.P. (MD) No.12849 of 2020 and obtained stay of investigation.

4. The learned Government Advocate (Crl. Side), on instructions, submitted that totally there are 9 accused. The petitioner is the king pin for the entire crime. Hence, his custodial interrogation is very much necessary.

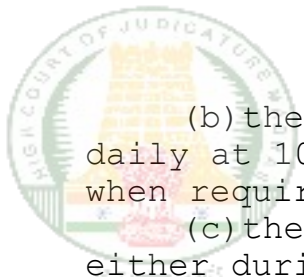
5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

6. Considering the rival submissions, it is seen that there are totally nine accused. The petitioner is A1, who is the power agent of A3 to A8. A3 to A8 are grandchildren of Sivakamiammal. The property had been devolved on A3 to A8, who executed power of attorney in favour of A1. On the strength of power of attorney, A1 entered into a sale agreement with A2 and the sale is registered by the A9, who is the Sub Registrar. This petitioner has acted only as power of attorney.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Tirunelveli, on condition that the petitioner shall execute a 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) The petitioner 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 petitioner shall report before the respondent police daily at 10.30 a.m, for a period of two weeks and thereafter, as and when required for interrogation.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner 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.

sd/-

05/03/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES, TIRUNELVELI.

2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TIRUNELVELI CITY.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.790 of 2021

Date :05/03/2021

IAS

AE/JC/SAR-I (10/03/2021) 3P / 5C

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