



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )  
Date : 01/04/2021

PRESENT  
The Hon`ble Mr.Justice M.NIRMAL KUMAR

WEB COPY

CRL OP(MD). No.862 of 2021

1. Alifh Ammal  
2. Thiravia Raj  
3. Maheshwari ... Petitioners/Accused Nos.1 to 3

Vs

The State rep.by,  
The Inspector of Police,  
District Crime Branch (ALGSC)  
Thoothukudi Dist  
Cr No. 6/2021. ... Respondent/Complainant

For Petitioners: Mr.Ebenezer.T.A,  
Advocate.

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

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

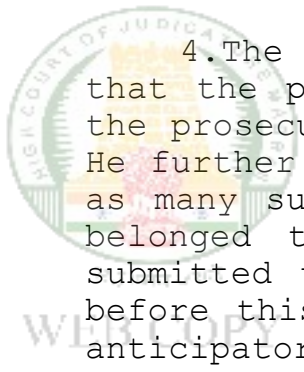
PRAYER :- For Anticipatory Bail in Crime No. 6/2021 on the  
file of the respondent Police

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused No.1 to 3, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120(B), 467, 468, 471 and 420 of IPC, in Criem No.6 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the land in survey No.793 to the extent of 8 acres 12 cents, which was originally belonged to Duraipandi Nadar and his family members. The defacto complainant's father viz., Shanmugavel Nadar was purchased the alleged land from Duraipandi in the year 1993 through sale deed No.949/1993 and the same was possessed and enjoyed by them without any hindrance. Subsequently, all the accused conspired together and created forged document and executed sale deed in their favour. Hence, the present complaint.

3.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.



4.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the land in survey No.793 was sub divided as many subdivisions. He further submitted that the alleged land belonged to the first petitioner, which was sold. He further submitted that the petitioner has also filed undertaking affidavit before this Court to that effect. Hence, he prayed for grant of anticipatory bail to the petitioners.

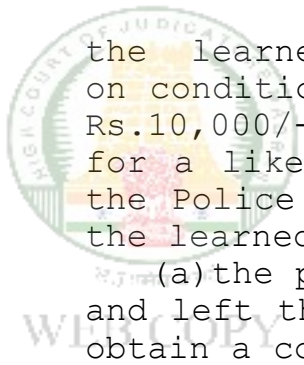
5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the petitioners and other accused persons have conspired together and created forged document and executed sale deed in their favour .

6.On perusal of the materials available on records, it is seen that the first petitioner had received the property by UDR patta. Based on the UDR patta, A4 has executed power deed in favour of A5. Thereafter, the said power deed was cancelled. After the cancellation, the sub division of 793/2 and 793/4, have been sold by the first petitioner to A2. A2 in turn had sold the property to A3. From the revenue records, it is also seen that the land in Survey No.793 was sub divided into four. The defacto complainant's father viz., Shanmugavel Nadar had purchased the property from one Duraipandi Nadar. The defacto complainant claimed title over the property. There is some dispute with regard to the claim of the property, based upon the survey numbers. It has to be verified only by verifying with the revenue authorities and also for the ownership of the property and possession. The petitioners have also approached the civil Court. The undertaking affidavit filed by the petitioner, in which, Paragraph No.4 is extracted hereunder:

"4.I humbly submit that the defacto complainant claims title over the property based on the sale deed obtained by his grandfather, whereas the petitioners claim title from the UDR patta. Some discrepancy exist between the two, ought to have been settled by revenue authorities. If the revenue authorities found that the patta granted in favour of a1, in patta No.4081 for the sub division of 793/2 and 793/4 is wrong in UDR scheme, they can very well cancel the same by following due process of law. Similarly if the documents in document Nos.574/2020 and 823/2020 are found false, we jointly undertake that we are willing to cancel the same."

7.In view of the same, 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 their appearance, within a period of two weeks from the date of receipt of a copy of this order, before



the learned Judicial Magistrate, Sathankulam, Thoothukudi District, 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 to 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 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 daily at 10.30 a.m for a period of two 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 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/petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

01/04/2021

/ TRUE COPY /

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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, SATHANKULAM, TUTICORIN DIST
  - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN
  - 3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH (ALGSC)  
THOOTHUKUDI DIST
  - 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.EBENEZER.T.A Advocate SR.No.2900

ORDER IN

CRL OP(MD) No.862 of 2021

Date : 01/04/2021