



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/04/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.901 of 2021

1. Thiravia Raj
2. Kanijegdeesh
3. Pelsia

... Petitioners/Accused Nos.1, 2 & 5

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch(ALGSC),
Thoothukudi District.
(Crime No.7 of 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.7 of 2021 on the file of the Respondent police.

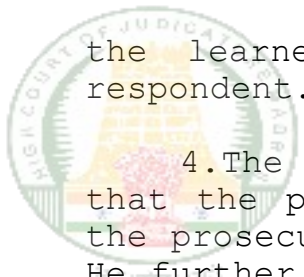
ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.1, 2 and 5, 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.7 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.793/3 to the extent of 1 acres 8 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.

<https://hcservices.ecourts.gov.in/hcservices/>

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 petitioners have also filed undertaking affidavit before this Court to that effect. Hence, he prayed for grant of anticipatory bail to the petitioners.

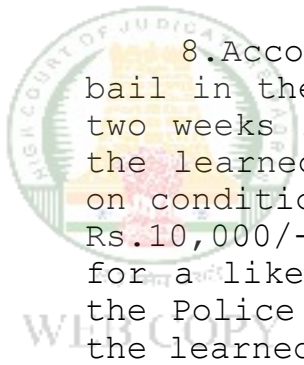
5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the petitioners and other accused persons have conspired together and created forged document and executed sale deed in their favour.

6.On perusal of the materials available on records and from the revenue records, it is also seen that the land in Survey No.793 was sub divided as many subdivisions. 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 petitioners, in which, Paragraph Nos.3 and 4 are extracted hereunder:

"3.I humbly submit that in fact as per UDR scheme Patta, the land in Survey No.793/3 was belonged to the father of A4, Durairaj Nadar. Admittedly the property in Survey No.156/2B1C, Pallakurichi Village to the extent of 10 cents belong to A1 pruchased by A3 and A4 who are sister and brother jointly. Both the properties are jointly sold to a2 vide sale deed in Kommadikottai Sub Register Office. There is no criminally in this case and no offence will be made out. Moreover, the defacto complainant himself admitting there is some dispute over sub division of property.

4.we humbly submit that if the revenue authorities found some wrong in UDR scheme, they can very well cancel the same by following due process of law. Similarly if the document in document No.762/2020 is 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 /

/ /2021

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

+1. CC to M/S.EBENEZER.T.A Advocate SR.No.2902

ORDER IN

CRL OP (MD) No.901 of 2021

Date : 01/04/2021