



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 30/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD).No.1316 of 2021

1. M.Devaraj
2. M.Neelamegam
3. A.Chinnaiyan
4. K.Rajagopal

... Petitioners/Accused 1 to 4

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Tiruchirappalli.
Cr.No.11 of 2020.

... Respondent/Complainant

Vasantha ... Intervening Petitioner/Defacto Complainant
in Crl.MP(MD)No.1245/2021 in Crl.OP(MD)No.1316/2021

For Petitioner : Mr.G.Thalaimutharasu,
Advocate.
For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)
For Intervenor : Mr.B.Jameel Arasu
Advocate.

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

PRAYER :-For Anticipatory Bail in Crime No.11 of 2020 on the file of the Respondent Police.

ORDER :The Court made the following order :-

The petitioners/A1 to A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 467, 468, 571 and 507(1) of IPC, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant, who is none other than the sister of the petitioners 1 and 2. After the death of the first and second petitioner's father, the petitioners have created a false partition deed to grab the family property. Hence, the complaint.

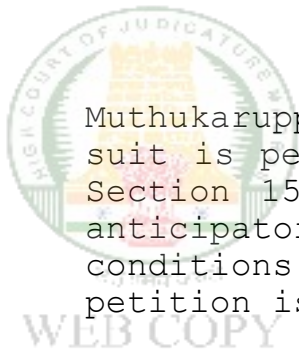


3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the de-facto complainant and three other sisters have filed a partition suit in O.S.No.124 of 2019, which is pending before the II Additional District Judge, Trichy. The learned counsel appearing for the petitioners seek permission of this Court to withdraw this petition in respect of the petitioners 3 and 4 are concerned and has also made an endorsement to that effect.

4.The learned Government Advocate (Criminal side) for the respondent states that the petitioners 1 and 2 are blood brothers of the de-facto complainant. After the death of the first and second petitioner's father, the petitioners have created a false partition deed to grab the family property. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

5.A perusal of the materials, it is seen that the petitioners 1 and 2 are blood brothers of the de-facto complainant. One Muthukaruppan and Ilanchiyam had six children as follows: Neelamegam, Kalyani, Vasantha, Devaraj, Puvaneshwari and Jeyachithra. The said Muthukaruppan died on 10.04.2013. Thereafter, legal heir certificate had been obtained on 20.06.2013, in which, Muthukaruppan's wife Ilanchiyam, the male members alone, namely, Neelamegam and Devaraj had been shown as legal heirs. Thereafter, this fact was not disclosed or known to the de-facto complainant and other sisters. In the meanwhile, the de-facto complainant had applied for legal heirship certificate and obtained the same including all the legal heirs including their mother on 18.07.2014. Subsequently, the de-facto complainant as well as the petitioners 1 and 2 mother died on 29.08.2014. During the lifetime of their mother, the mother had executed a settlement deed by a registered document in Document No.439/2014 on 10.07.2014, wherein, all the four female members of the family had been apportioned with the property of Muthukaruppan and Ilanchiyam. Strangely in the said settlement, there is no mention about the petitioners 1 and 2 herein. The petitioners 1 and 2 herein had executed a partition deed between themselves on 24.04.2019, leaving the entire female members. Hence, the female members of Muthukaruppan family had filed a partition suit in O.S.No.124 of 2019, which is pending before the II Additional District Judge, Trichy. Thereafter, following it up with the complaint to the Superintendent of Police, Trichy on 03.12.2020, no action was taken. Thereafter, the de-facto complainant filed a petition under Section 156(3) of Cr.P.C., before the learned Judicial Magistrate No.V, Trichy, which was forwarded and the above case came to be filed.

6.Considering the facts and circumstances of the case and also considering the fact that the dispute between the family members and



Muthukaruppan and Ilanchiyam are fighting for properties and a civil suit is pending and the present case has also been forwarded under Section 156(3) of Cr.P.C. Hence, this Court is inclined to grant anticipatory bail to the petitioners 1 and 2 with certain conditions. In so far as the petitioners 3 and 4 are concerned, this petition is dismissed as withdrawn.

7. Accordingly, the petitioners 1 and 2 are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court No.V, Trichy, on condition that the petitioners 1 and 2 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 1 and 2 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 1 and 2 shall report before the respondent police as and when required for interrogation.

(c) the petitioners 1 and 2 shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 1 and 2 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 1 and 2 in accordance with law as if the conditions have been imposed and the petitioners 1 and 2 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/-
30/03/2021

/ 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 NO.V,
TRICHY

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, TIRUCHIRAPPALLI.

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

ORDER

IN

CRL OP(MD) No.1316 of 2021

Date :30/03/2021

SJI

PK/JC/07.04.2021 : 4P/5C