



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/07/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2194 of 2021

S.Sutha ... Petitioner/2nd Accused

Vs

The State Represented by
The Inspector of Police,
City Crime Branch
(Algsc) Tirunelveli.
Cr No. 46/2020..

... Respondent/Complainant

For Petitioner : Mr.N.ANANDAKUMAR, Advocate.
for Mr.V.Malaiyendran.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

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

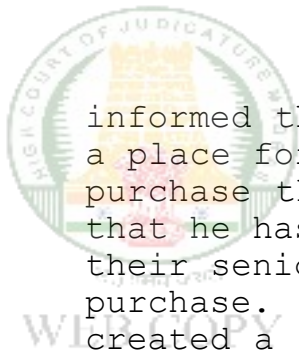
PRAYER :-

For Anticipatory Bail in Crime No.46 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/2nd accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 465, 467, 468, 471 and 120B of IPC, in Crime No.46 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant purchased the property covered in document No.4088/1997 on 10.12.1997 and has been enjoying this property. There are three rooms bearing door Nos.12A, 13 and 13B in the ground floor and three rooms in bearing door Nos.13C/1, 13C/2, 13C/3 in the upper floor. Some tenants are there in these rooms. In the year 2019, Balaji and Anand from Tirunelveli met the de-facto complainant's father and



informed that they are juniors of the third accused and they wanted a place for setting up an Advocate's Office and they also offered to purchase the building. The de-facto complainant's father told them that he has no intention to sell the property. Then, they told that their senior would complete the sale some how, if he really wants to purchase. Accused 2 and 3 in collusion with the other accused had created a forged sale deed on 26.09.2019. On 10.12.1997, the first accused sold this property to the de-facto complainant for a sum of Rs.1,95,000/-. Subsequently, with an intention to gain money illegally, he had again sold the property to the second accused on 26.09.2019. There are cases pending against the accused 2 and 3 in C.C.Nos.93 of 2007 and 94 of 2007 before the learned Judicial Magistrate No.1, Tirunelveli. The third accused is now running an Advocate Office in the first floor and the upper floor. The value of the property is Rs.One crore. With an intention to grab the property, to value the property is shown as Rs.3,00,000/-. A4 and A5 had aided the accused 1 to 3 and they acted as attestors to the document. A6 has prepared the document. A7 helped the other accused in executing this forged document. Therefore, this case came to be registered.

3.The learned counsel for the petitioner submitted that the petitioner is innocent. She purchased the property and after verifying the encumbrance certificate. Encumbrance certificate shows that the alleged sale transaction is in favour of A1, dated 10.12.1997, which is not reflected in the encumbrance certificate. Since this sale is not reflected in the encumbrance certificate, believing that there is no encumbrance, she purchased the property. In support of her case, she produced the following documents:

S. No.	Date	Particulars
1.	24.07.2019	Copy of the property Tax Receipt in the name of the first accused.
2.	16.09.2019	Copy of the encumbrance certificate before the registration of sale deed No.5333/2019 by A1.
3.	26.09.2019	Copy of the sale deed No.5333/2019.
4.	11.01.2020	Copy of the execution order from Tirunelveli Corporation Office.
5.	20.02.2020	Copy of the encumbrance certificate after the registration of sale deed No.5333/2019 by the de-facto complainant.
6.	05.09.2020	Copy of the summon from respondent police with petitioner statement during the enquiry before the respondent police.

4.The learned Additional Public Prosecutor opposed this petition on the ground that investigation in this case is not completed.



5.It is a case, where the first accused said to have executed a sale deed in favour of the petitioner suppressing the earlier sale in favour of the de-facto complainant. As rightly pointed out by the learned counsel for the petitioner, the sale in favour of the de-facto complainant is not reflected in the encumbrance certificate, which is filed as document No.2. Even in the encumbrance certificate obtained on 20.02.2020, the sale in favour of the de-facto complainant on 10.12.1997 is not reflected. The learned Additional Public Prosecutor was also directed to enquire into this matter and make his submission.

6.Today, a communication received from the Joint Sub-Registrar No.1, Palayamkottai is produced. It is seen from the communication that there is no sale deed executed in the name of the de-facto complainant on 10.12.1997. He also produced the copies of the encumbrance certificate for the concerned period. Thus, it is clear that the sale deed through which the de-facto complaint claims that the first accused had executed sale on 10.12.1997 is not reflected in the encumbrance certificate. Therefore, this Court cannot find fault with the second accused for buying the property from the first accused. The rival claims with regard to the title to the property have to be proved by the respective parties only during the course of trial by production of relevant oral and documentary evidence.

7.In such view of the matter, this Court finds that custodial interrogation of the petitioner is not necessary in this case. Therefore, this Court is inclined to grant anticipatory bail to the petitioner with conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Judicial Magistrate 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 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., until further orders;

[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]**;

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

sd/-

29/07/2021

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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 SPECIAL JUDICIAL MAGISTRATE COURT
FOR LAND GRABBING CASES,
TIRUNVELLI.
- 2.DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
CITY CRIME BRANCH (ALGSC)
TIRUNELVELI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.2194 of 2021

Date :29/07/2021

SS/VR/SAR-I/03.08.2021 : 4P/5C