



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/02/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.2491 of 2021

1. Akilan
2. Noval

... Petitioners/Accused No.1 & 2

Vs

State rep.by,
The Inspector of Police,
District Crime Branch,
Ramanathapuram District
(Crime No.16/2019)

... Respondent/Complainant

For Petitioners: Mr.Maheswaran.R.,
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.16 of 2019 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused No.1 and 2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 465, 468, 471, 420 and 120(B) of IPC in Crime No.16 of 2019 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant has executed one power of attorney in respect of the land measuring 3½ cents situated in S.No.382/3 in favour of the first petitioner and subsequently, the petitioners and other accused persons were said to have conspired together and created another power of attorney by forging the signature of the defacto complainant in respect of 21½ cents of the land and registered the same as document No.1503/2019 in the office of the District Registrar, the present complaint.

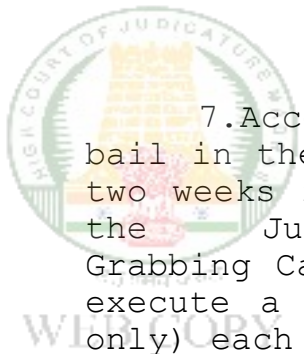


3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that this is the third application and earlier this Court by order dated 15.07.2019 has granted anticipatory bail to the petitioners in Crl.O.P.(MD).No.9588 of 2019, with conditions and one of the condition is that the petitioner has to appear before the respondent Police daily at 10.30 a.m for a period of three weeks and thereafter as and when required for interrogation. After executing the sureties, the petitioners were not able to comply with the conditions. Thereafter, the anticipatory bail was granted by this Court in Crl.O.P.(MD).No.9588 of 2019 was cancelled by the Judicial Magistrate Court Anti Land Grabbing Special Court, Ramanathapuram, by order dated 09.07.2020 in Cr.M.P.No.6 of 2020. Thereafter, the petitioner has filed a second anticipatory bail petition in Crl.O.P.(MD).No.9800 of 2020 and the same was dismissed as withdrawn on 18.09.2020. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioners and other accused persons were said to have conspired together and created another power of attorney by forging the signature of the defacto complainant in respect of 21½ cents of the land and registered the same as document No.103/2012.

5.On perusal of the materials available on records, it is seen that earlier the petitioner was granted anticipatory bail by this Court, in Crl.O.P.(MD).No.9588 of 2019, dated 15.07.2019 and one of the conditions is that the petitioner should not abscond either during investigation or trial. After executing the sureties, the petitioners were not able to comply with the conditions. During the investigation, the respondent police has sent notice under Section 91 Cr.P.C., on 21.05.2020 and 02.06.2020 and directed the petitioners to appear before the respondent Police for enquiry. Thereafter, the petitioner failed to appear before the respondent Police. Hence, the respondent Police has filed a petition in Cr.M.P.No.6 of 2020 seeking for cancellation of anticipatory bail and the anticipatory bail granted to the petitioners was cancelled by the Judicial Magistrate Court Anti Land Grabbing Special Court, Ramanathapuram, dated 09.07.2020. On perusal of the lower Court order, it is seen that notices were served to the petitioners through their counsel and not to the petitioners personally. It is also seen that the petitioners are fishermen and they were not aware about the summons.

6.In view of the same, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



7. 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 Judicial Magistrate Court, Special Court for Anti Land Grabbing Cases, Rameswaram, 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
26/02/2021

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/ /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,
SPECIAL COURT FOR ANTI LAND GRABBING CASES,
RAMESWARAM.
- 2 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.2491 of 2021
Date :26/02/2021

NR/VR/SAR-III(04.03.2021) 2P:4C