



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

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Reserved on	Pronounced on
29.06.2021	01.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2667 of 2021

M.Subramanian ... Petitioner/Accused No.4

Vs

State rep by
The Inspector of Police,
District Crime Branch,
Thanjavur
Crime No.14/2020.

... Respondent/Complainant

Anandan ...Petitioner/Defacto Complainant
in CRL MP(MD)No.1936 of 2021

For Petitioner : Mr.B.Anandan
Advocate.

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

For Intervenor : Mr.A.Arun Prasad
Advocate

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

PRAYER :-

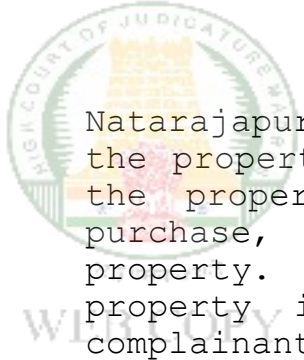
For Anticipatory Bail in Crime No. 14 of 2020 on the file of
the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A.4, apprehending arrest at the hands of the
respondent police for the alleged offence punishable under section s
416 and 420, I.P.C., in Cr.No.14 of 2020 on the file of the
respondent police, seeks anticipatory bail.

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

2. The case of the prosecution is that the defacto
complainant's father Jembu purchased a property in R.S.No.336, at



Natarajapuram south, Thanjavur on 21.05.1971. The prior owner of the property is the first accused - Rajam Krishnan. She purchased the property from Nataraj Iyer in the year 1962. After the purchase, the defacto complainant's father was enjoying this property. He executed a Will on 18.08.2000 bequeathing the suit property in favour of the defacto complainant. The defacto complainant's father died on 22.11.2003. While this being so, suppressing the fact that the original title deed has been handed over to the defacto complainant's father by the first accused, she had given a false complaint as if she lost the original documents and on that basis, she had executed two settlement deeds in favour of her grandsons, the accused 2 and 3 herein, on 23.04.2014. It appears that the fourth accused, knowing all these factors, had purchased this property. Therefore, this case came to be registered.

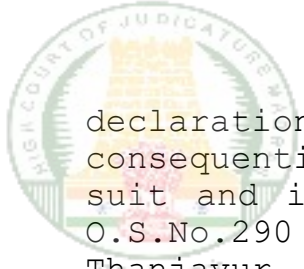
3. The learned Counsel for the petitioner submitted that the petitioner is innocent. He is a *bonafide* purchaser. He did not know about the previous sale in favour of the defacto complainant's father. It is his submission that the encumbrance certificate did not reflect the sale in favour of the defacto complainant's father. When the defacto complainant also made rival claim to the property, he had filed a suit and that suit is pending. A civil dispute had been converted into a criminal case. Therefore, he seeks anticipatory bail to the petitioner.

4. The learned Counsel for the intervenor opposed this petition on the ground that the petitioner had purchased after knowing well that there is a sale in favour of the defacto complainant's father. He is not a *bonafide* purchaser and therefore, he prays for dismissal of this petition.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the investigation in this case is not yet completed.

6. The learned Counsel for the petitioner filed typed set of papers containing patta transfer order in favour of the first accused, chitta extract, gift deed in favour of the accused Nos.2 and 3, sale deed executed by the second accused Sekar in his favour, patta transfer order in his favour, property tax receipt and electricity card. Apart from these documents, he also produced copies of plaint and written statement in O.S.No.261 of 2015.

7. It is the case of the petitioner that the defacto complainant filed O.S.No.261 of 2015, on the file of the District Munsif Court, Thanjavur, claiming the relief of declaration that the sale deed in favour of this petitioner is null and void. After this petitioner entered appearance and filed written statement, the defacto complainant not pressed the suit. Suppressing his suit, he had again filed a suit in O.S.No.94 of 2017, on the file of the Principal District Court, Thanjavur seeking the relief of



declaration in respect of the disputed property and other consequential relief. The petitioner filed written statement in the suit and it is pending. The petitioner had also filed a suit in O.S.No.290 of 2015, on the file of the District Munsif Court, Thanjavur seeking the relief of permanent injunction, restraining the defendant from any way interfering with his possession and enjoyment of the disputed property. This suit is also pending.

8. When the defacto complainant filed a suit in O.S.No.261 of 2015, on the file of the District Munsif Court, Thanjavur and not pressed and subsequently he filed O.S.No.94 of 2017, on the file of the Principal District Court, Thanjavur and it is pending; also the fact that the suit filed by the petitioner in O.S.No.290 of 2015, on the file of the District Munsif Court, Thanjavur is pending, it is crystal clear that the defacto complainant had given false complaint against the petitioner only to harass him.

9. It is seen from the submissions made, the allegations made in the First Information Report and other materials mentioned above that there is a dispute with regard to the property in R.S.No.336, at Natarajapuram south, Thanjavur. The defacto complainant and the petitioner claim title to the same property. Of course, there are allegations that the first accused had suppressed the sale alleged to have been executed by her in favour of the defacto complainant's father and settled those properties in favour of her grandsons, who are A.2 and A.3 in this case. These aspects have to be gone deep into by a competent civil Court.

10. As already discussed, there are two civil suits pending almost for identical or incidental relief. This Court, while considering the anticipatory bail petition, cannot go deep into the question of title. It is a matter of consideration by a civil Court. Since the issue involved between rival claimants have to be decided only on the basis of documentary evidence, supported by oral evidence, this Court is of the considered view that the custodial interrogation of the petitioner is not necessary. In such view of the matter, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the Judicial Magistrate Court No.II, Thanjavur, within a period of fifteen days from the date of receipt of a copy of this order, on his executing 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 said Magistrate 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-

01/07/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSL

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.II, THANJAVUR.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

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

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

+1 CC to M/s.P.VADIVEL, Advocate (SR-4336[I] dated 05/07/2021)

ORDER

IN

CRL OP(MD) No.2667 of 2021

Date :01/07/2021