



WEB COPY

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

Dated: 21/12/2021

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Cr1.OP(MD)No.3820 of 2021

1.V.Vellapandian
2.V.Kannan
3.S.G.Baseer

... Petitioners/Accused No.2 to 4

Vs.

The State rep. By
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
(Crime No.5 of 2021)

... Respondent/Complainant

M.Akram

... Petitioner/Ptitioner/
Defacto Complainant

For Petitioners : M/s.R.Pon Karthikeyan

For Respondent : M/s.S.Manikandan,
Government Advocate (Criminal side)

For Intervener : M/s.S.Thirupathy, Advocate

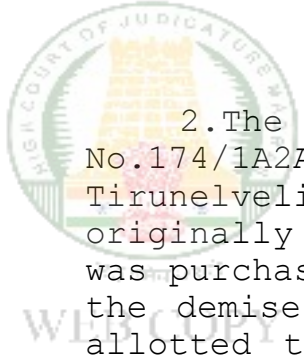
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.5 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who were arrayed as A2 to A4 apprehending arrest at the hands of the respondent police for the offences punishable under sections 120(b), 465, 468, 471 and 419 IPC, in Crime No.5 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.174/1A2A situated in Muneerpallam Village, Palayamkottai Taluk, Tirunelveli District, measuring about 2 acres and 50 cents originally belonged to one Arumugam, S/o.Sankaran Pillai and that was purchased by the father of the complainant, on 16/06/1995. After the demise of his father, in an oral partition, the property was allotted to the complainant. In order to grab the property, the accused persons have impersonated and created the forged document. Based upon which, the case in Crime No.5 of 2021 for the offences punishable under sections 120-B, 465, 468, 471 and 419 IPC has been registered.

3.Seeking anticipatory bail, this petition came to be filed by the petitioners. The intervener also present, who is the de-facto complainant and filed intervening petition.

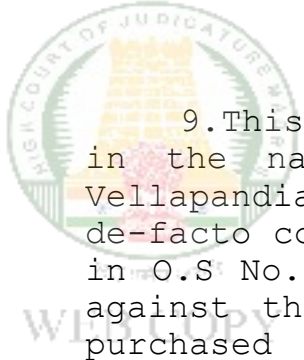
4.Heard both sides.

5.The entire CD is sought for and also perused.

6.As mentioned above, the main allegation is that the accused persons have impersonated and created a forged document.

7.Now according to the de-facto complainant, based upon the above said forged document, a suit in O.S No.214 of 2015 was filed before the Additional Sub Court, Tirunelvel. A fraudulent decree has also obtained in favour of A2. So on the basis of the above said fraudulent decree, A2 sold the property in favour of A1 on 20/01/2017. Later A1 settled the property in favour of A3 on 08/10/2018. Later the above said A3, executed a power of attorney deed in favour of A4. So according to him, all these documents have created for the purpose of claiming and grabbing the property of the de-facto complainant. So along with this bail application, he has also produced the revenue records and other documents, which show the previous ownership.

8.According to the petitioners, the property under dispute was originally owned by L.K.S.Abdulkareem. The Government of Tamil Nadu under the provisions of the Land Ceiling Act has declared that the above said land as excessive and surplus land. Later, it was assigned to in favour of Aruugam, s/o.Sankaran Pillai and later, entered into a real estate business on 22.01.2015. Later that was also dissolved. So in the partnership agreement, A2- Vellapandian invested a sum of Rs.1,00,000/- and the above said Arumugam invested the land, which was assigned to him. Thereafter, trouble arise between them and a suit in O.S No.214 of 2-15 was filed by A2 and in that process, a compromise was entered, in which the above said Arumugam received Rs.10,00,000/- and the property was allotted to the above said Vellapandian. The compromise was dated 25/04/2016. The award was also registered before the Sub Registrar, Melapalayam. So based upon, only A1 executed a settlement deed in favour of A2 and subsequent document has also been executed.



9.This narration of facts shows that the property was assigned in the name of Arumugam and later, it was acquired by the Vellapandian, by virtue of the above said compromise deed. Now the de-facto complainant, who is the son of Meera Malik has filed a suit in O.S No.14 of 2019 before the Additional Sub Court, Tirunneveli, against the real owner namely K.S.Abdul Kareem stating that they purchased lands from him and during the purchase, the above said K.S.Abdul Kareem suppressed the fact to the effect that the property was declared and taken over by the Government and later assigned to A1.

10.The further facts shows that the suit was dismissed and against which, appeal in AS No.183 of 2000 was partly allowed, by which the refund of purchase amount was ordered. So all these facts have been suppressed in the complaint. The patta that has been granted in favour of the father of the de-facto complainant has also been cancelled on 07/05/2014. With regard to the step that has been taken by L.K.S Abdul Kareem for restoring the area is also under dispute. So, these sequence of events shows that it is nothing, but there was a dispute between the de-facto complainant and the accused persons and we cannot go into much details about the revenue proceedings. The statement of the facts that have been narrated in the petition shows that it is purely a civil dispute between the parties. Under such circumstances, how the impersonation has been alleged is a matter for investigation. So from the typed set of papers, the intervener also produced the copy of the expert report, which is dated 26/08/2020. But however, on the basis of the reference, this court mediated the issue and a mediation report has also produced, wherein we find that this court is not in a position to understand the report filed by the mediator.

11.When the matter was not settled between the parties, the mediator has given a opinion that the de-facto complainant is entitled for the property and he has also stated that the Government of Tamil Nadu has acquired the property and awarded a sum of Rs.2,23,473/- is also awarded to the de-facto complainant family. The sale has been effected by the land owner has been paid by the Government under the provisions of 22 of the Act.

12.This court absolutely is not in a position to understand the position of the report given by the mediator, when that was not settled in the mediation. The opinion in the mediation report cannot be taken into account.

13.From the facts and circumstances as mentioned above, it is purely a civil dispute. As mentioned above, the facts set out in the petition are more sufficient to conclude that it is purely a civil dispute. The learned Principal District Judge, Tirunelveli, in its order, dated 06/03/2021 in CrI.MP NO.1340 of 2020 has relied upon the opinion of the expert as stated above. On what authority, such a reference has been made to the expert is not available on record.



14.It appears that a request has been made by the de-facto complainant privately and it is also a private forensic laboratory, wherein it has been stated that the disputed signature found in the Xerox copy of the award, which according to him, allegedly contains the signature of RW1 is entirely different from the sale deed dated 11/05/1994. If really, there was impersonation before the concerned court during the process of compromise, then the competent person is only the de-facto complainant ought to have moved the concerned court, which passed the award. So without taking out the legal process, this complaint has been given.

15.So all these things can be sorted out during the course of investigation, for which no custodial interrogation is required and everything is borne out by records. So this court inclined to grant anticipatory bail to the petitioners with conditions.

16.In the view of the above, I am inclined to **grant anticipatory bail** to the petitioners with certain conditions.

17.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their before the learned Judicial Magistrate No.1, Tirunelveli and on each of them 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 am until further orders. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

Sd/-
21/12/2021

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/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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.



1. THE JUDICIAL MAGISTRATE NO.1,
TIRUNELVELI.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

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

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

+1. CC to M/S.PON KARTHIKEYAN R Advocate SR.No.9649

+1. CC to M/S.S.THIRUPATHI, Advocate SR.No.9730

ORDER

IN

CRL OP(MD) No.3820 of 2021

Date :21/12/2021

SP/JC/SAR I/29/12/2021/5P/7C