



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/08/2021

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PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.10564 of 2021

1.Yogaraj @ Kannan
2.Rajeshkumar
3.Ravi

... Petitioners 1 to 3/Accused No.1 to 3

Vs

State Rep. by
The Inspector of Police,
Eral Police Station,
Thoothukudi District.
(Crime No.543/2020).

... Respondent/Complainant

For Petitioners: Mr.S.Sankar
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Criminal Side)

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

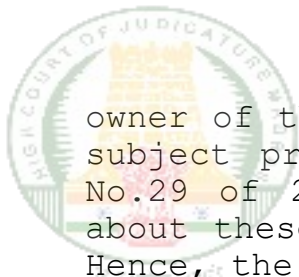
PRAYER :-

For Anticipatory Bail Crime No.543 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused 1 to 3, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 468, 470, 471, 506(i) IPC, in Crime No.543 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant namely Murugan S/o Late Mookandi Nadar, a native of Umarikadu, Eral Taluk, Thoothukudi District, is doing business at Mumbai. According to the defacto complainant, he is the owner of the House property of bearing Natham Survey No.677/9. He purchased the property from his father vide Sale Registration No.1302 of 2012. The Accused No.1 tried to take possession of the property by preparing forged documents. The Accused No.2, the President of the Umaricadu Primary Co-operative Society, issued fake certificate stating the Accused No.1 is the



owner of the said property. Moreover, the Accused No.1 pledged the subject property to the Accused No.3 by hiding a registered Will No.29 of 2014. When the petitioner came from Mumbai and enquired about these allegations on 18.12.2020, the accused, threatened him. Hence, the complaint.

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3.The learned counsel for the petitioners submits that the defacto complainant is the elder brother of the 1st petitioner/Accused No.1.The disputed property belongs to Mr.Mookandi Nadar, father of the 1st petitioner/Accused No.1 and the defacto complainant. Mr.Mookandi Nadar gifted the disputed property to the 1st petitioner/Accused No.1, for which a gift deed was executed in Document No.514 of 1999, dated 09.06.1999 in the Sub Registrar Office, Eral, without any condition. The 1st petitioner pledged the said property to one Mr.Muruganandam, which was registered as Document No.109 of 2000, dated 07.02.2000. The pledge was cancelled on 18.10.2012 vide Document No.1064 of 2012. Thereafter, Mr.Mookandi Nadar cancelled the aforesaid gift deed vide Gift Cancellation Deed No.1181 of 2012, dated 26.11.2012 in the Sub Registrar Office, Eral and subsequently, executed a Sale deed in No.1302 of 2012 in favour of the defacto complainant on 26.12.2012. Later, Mr.Mookandi Nadar executed a Rectification Deed in No.187 of 2013 on 22.04.2013 in aforesaid Sale deed No.1302 of 2012. resolution in No.84, dated 30.09.2013, was passed by the Umarikadu Panchayat, Thoothukudi District, not to collect any tax for the disputed property and the parties are directed to settle the matter in the appropriate Court. Later, the defacto complainant executed an Arrangement Deed in Document No.579 of 2016 in favour of his wife Mrs.M.Sankreshwari with respect to the disputed property.

4.He further states that the Electricity Connection, Water connection and House property in the local panchayat are all in the names of the first petitioner and he is paying the same sine 1999. The 1st petitioner gave a complaint before the Superintendent of Police, Thoothukudi District, on 18.07.2016; to the Inspector General of Registration, Chennai, on 29.07.2016; the Chief Minister Cell, on 26.08.2016; and the District Collector, Thoothukudi District, on 18.07.2016, about the illegal documentation by the defacto complainant.

5.The learned Government Advocate (Crl. Side) submits that the 1st petitioner, without any valid right over the property, has created a document with regard to the property of the defacto complainant. He further submitted that the investigation is got to be completed.

6.Considering the rival submissions made and considering the facts that the disputed property was given to the 1st petitioner by way of an unrevokable settlement deed by the father of the 1st petitioner in gift deed No.514 of 1999 and subsequently, the same



the cancellation is not known to him, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, this Criminal Original Petition is allowed and the petitioners 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, Srivaikundam, Thoothukudi District, 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 learned Magistrate concerned and on further conditions that:

(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent police daily at 10.30. a.m. until further orders.

(c) the petitioners shall not tamper with the 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/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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Sub-Assistant Registrar (C.S.)
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.

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



TO

1 THE JUDICIAL MAGISTRATE,
SRIVAİKUNDAM,
THOOTHUKUDI DISTRICT.

2 DO THROUGH

THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3 THE INSPECTOR OF POLICE,
ERAI POLICE STATION,
THOOTHUKUDI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.10564 of 2021

Date :25/08/2021

PKP/JC/SAR-2/14.09.2021/4P/5C