



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

Crl.OP (MD) Nos.12048 & 12101 of 2021

WEB COPY

Poolpandi

: Petitioner/Accused (Rank Not Known)
in Crl.OP (MD) No.12048/21

1.Venkatesh

2.Muthukumar

3.Chidamparakumar

4.Balamurugan

5.Gnanaraj

: Petitioners/Accused No.1 to 5
in Crl.OP (MD) No.12101/21

Vs

The State rep. by,
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime.No.16 of 2021

: Respondent/Complainant
in both petitions

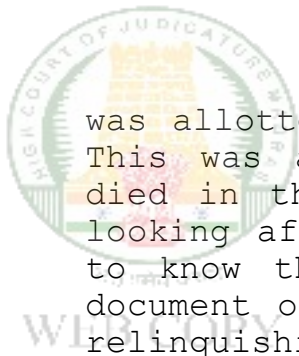
PRAYER: Petitions filed under Section 438 of the Criminal Procedure Code seeking anticipatory bail to the petitioners in connection with the case in Crime No.16 of 2021 on the file of the respondent police.

For Petitioners	: Mr.S.Palani Velayutham, Advocate in Crl.OP (MD) No.12101/21
For Petitioner	: Mr.R.Pon Karthikeyan, Advocate in Crl.OP (MD) No.12048/21
For Respondent	: Mr.T.Senthilkumar Additional Public Prosecutor
For Intervenor	: Mr.V.Katirvelu, Senior Counsel for Mr.K.Prabhu, Advocate

COMMON ORDER

Crl.OP.(MD)No.12048 of 2021 is filed by one Poolpandi and Crl.OP.(MD)No.12101 of 2021 is filed by one Venkatesh [A1], Muthukumar [A2], Chidamparakumar [A3], Balamurugan [A4] and Gnanaraj [A5]. All of them are apprehending arrest at the hands of the respondent police for the offence punishable under Sections 420, 465, 467, 468 and 471 IPC in connection with the case in Crime No.16 of 2021 and hence, filed these petitions for anticipatory bail.

2. The prosecution case is that one Narayanasamy Reddiyar, defacto complainant's grandfather, is having several self-acquired and ancestral properties and he has executed a registered partition deed on 14.07.1972 and divided all his properties to his sons. In accordance to the said registered partition deed, the property in S.No.692B/4A situated at Pudhukulam Village, Palayamkottai Taluk,



was allotted to the defacto complainant's father, Anandapadmanaban. This was also reflected in the revenue records. Anandapadmanaban died in the year 2007 and thereafter, the defacto complainant is looking after the property. While so, the defacto complainant came to know that the accused nos.1 & 2 have created a release deed document on 21.01.2020 with their mother and sister, that they are relinquishing their shares to the said accused over certain properties. Thereafter, they have created a power of attorney document on 23.12.2020 registered at Chennai and included the property of the defacto complainant in S.No.692B/4A in the schedule of properties. Through the power deed, the accused have also sold the property to the fourth accused, through a registered deed dated 09.03.2021. Thereafter, the property was reconveyed to the fifth accused by a registered sale deed dated 15.03.2021, who, in turn, has sold the property to one Poolpandi / petitioner in Crl.OP(MD) No.12048 of 2021. Hence, the complaint.

3. Learned Counsel for the petitioners in Crl.OP(MD)No.12101 of 2021 submitted that the property in S.No.692B/4A situated at Pudhukulam Village, belong to the accused nos.1 & 2 and they are having valid documents in support of the same. The revenue records are also standing in their name. The learned Counsel has also relied upon various documents, including the Adangal dated 30.06.2002; Encumbrance Certificate in respect of the disputed property from 01.01.1926 to 27.01.2021; the power of attorney dated 23.12.2020; and the subsequent deeds dated 15.03.2021, 12.08.2021 and 16.08.2021. While so, the defacto complainant has foisted a false complaint and the respondent police has also registered the complaint in a mechanical manner. The petitioners are innocents and have committed any offence as alleged by the prosecution and therefore, prayed for grant of anticipatory bail.

4. Apart from the above submission, learned Counsel for the petitioner in Crl.OP(MD)No.12048 of 2021 submitted that the petitioner, being a purchaser, has filed a civil suit as against the defacto complainant before the learned District Munsif, Tirunelveli in O.S.No.323 of 2021 and the same is pending consideration.

5. Learned Senior Counsel for the defacto complainant / intervenor has made his submissions that the petitioners have created a forged power of attorney deed and also subsequent documents without any valid title. The accused claim right over the property through the power of attorney dated 23.12.2020, tracing the title from partition deeds of the year 1919 and 1938, which have no relevancy to the property in dispute. With the strength of the power deed, they have managed to create the revenue records. Apart from the property of the defacto complainant, the power of attorney document shows properties belonging to several other persons as well, which does not belong to the accused persons. The accused have caused a huge fraud as against the society and attempted to illegally grab the lands of many persons. Only on custodial



interrogation, the truth will come out and therefore, he prayed for dismissal.

6. Learned Senior Counsel further submitted that the petitioner in Crl.OP(MD)No.12048 of 2021 / Poolpandi is having a similar case in Crime No.125 of 2013 on the file of the Moolakaraipatti Police Station and also involved in the case in Crime No.25 of 2013 on the file of the District Crime Branch, Thoothukudi.

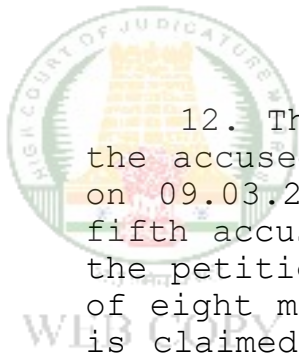
7. Learned Additional Public Prosecutor for the respondent police, on instructions, submitted that in the strength of the power deed, the accused have mutated the revenue records and in the strength of the same, they have created several documents. After verification and after obtaining necessary opinion, the respondent police has registered the case in Crime No.16 of 2021 and the investigation is in the crucial stage. Only by arresting the accused, they can find out the volume of fraud committed by the petitioners and therefore, he prayed for dismissal.

8. Heard the learned Counsel appearing for the respective parties. Learned Counsel on either side have relied upon voluminous documents in support of their respective claims and this Court has also perused the same.

9. The petitioners are facing allegation that they have created forged documents pertaining to a property in S.No.692B/4A. As per the partition deed dated 14.07.1972, the said property was conveyed by one Narayanasamy Reddiyar to his son, one Anandapadmanaban, father of the defacto complainant. The name of Narayanasamy Reddiyar is not mentioned in the patta in No.1402. Similarly, the names of the accused was also not mentioned in the patta in No.1402. But, it was included based on the alleged power of attorney dated 23.12.2020, executed between the accused nos.1 to 3.

10. The Village Administrative Officer in the information furnished by him under the Right to Information Act has confirmed that the names of the accused are entered in the patta based on the power of attorney and based on the judgment in O.S.No.583 of 1996. This Court has perused the judgment in O.S.No.583 of 1996 and it appears that this judgment is no way related to the disputed property. However, the Village Administrative Officer has taken this judgment and the power of attorney document as a ground for including the accused' name in the revenue records.

11. A patta cannot be provided based on a power of attorney document. Besides, the power of attorney relies on two previous deeds of the years 1919 and 1938, but, both of them do not whisper anything about the disputed property in S.No.692B/4A. It appears that by taking advantage of the similarity in the names available in the documents, the accused have created a power of attorney document by relying upon the these two deeds.



12. The power deed was executed on 23.12.2020, based on which, the accused nos.1 & 2 have sold the property to the fourth accused on 09.03.2021. The fourth accused reconveyed the property to the fifth accused on 15.03.2021, who, in turn, has sold the property to the petitioner in Crl.OP.12048 of 2021 on 12.08.2021. Within a span of eight months, all these documents have been created. In fact, it is claimed by the learned Senior Counsel appearing for the defacto complainant that the accused have not only created the documents pertaining to the property of the defacto complainant, but also, properties pertaining to various other persons and caused fraud as against the society. The truth or otherwise in this regard will see the light only on completion of the investigation.

13. Though the petitioner in Crl.OP(MD)No.12048 of 2021 / Poolpandi is said to have filed a civil suit before the District Munsif Court, Tirunelveli and the issue is subject matter of a civil litigation, on a perusal of the documents placed, this Court is satisfied that a *prima facie* case is made out as against the petitioners / accused. Apart from the petitioners, the revenue officials also appear to have colluded with the accused in creation of the documents. This Court is also of the view that at this stage, if the petitioners are granted anticipatory bail, there is every possibility of them in destroying the documents and tampering the evidence.

14. In view of the foregoing discussions and reasonings, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, both the petitions stand dismissed.

sd/-

20/09/2021

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/ /2021

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

TO

1. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, TIRUNELVELI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate SR-6502.

+1 CC to M/s.K.PRABHU, Advocate SR-6381.

ORDER IN

CRL OP(MD) No.12048 & 12101 of 2021

Date :20/09/2021

USK/JC/SAR-IV/ (27.09.2021) 4P-5C

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