



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 02/12/2021

Delivered on : 08/12/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.12399 of 2021

1. JEYA
2. SHANMUGAVEL
3. VELAMMAL
4. SEETHAIAMMAL
5. MURUGAMMAL
6. KANIAMMAL
7. BALASUBRAMANIAN

...PETITIONERS/ACCUSED
RANK NOS.2 TO 8

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CITY CRIME BRANCH,
TIRUNELVELI CITY.
(CRIME NO. 43 OF 2020).

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.VELRAJAN.S, Advocate
For Respondent : M/S.RMS.SETHURAMAN,
Additional Public Prosecutor

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

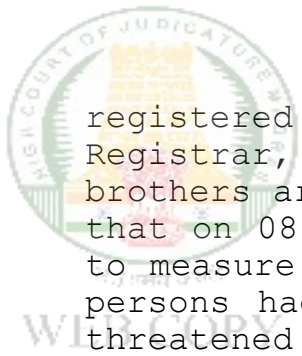
PRAYER :-

C-24AB. For Anticipatory Bail in Crime No.43 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 120(B), 465, 467, 468 and 471 IPC, in Crime No.43 of 2020, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant and his brothers have purchased the property from one Sivakamiammal, grandmother of the accused 3 to 8, that the sale deed was duly



registered in document No.1293/1977, dated 14.08.1977 before the Sub Registrar, Palayamkottai, that the defacto complainant and his brothers are in joint possession and enjoyment of the said property, that on 08.02.2020, the accused came to that property and attempted to measure the land, that when the same was questioned, the accused persons had informed that the said land was belonging to them and threatened the defacto complainant with dire consequences, that on verification they came to know that the accused 3 to 8 had executed a general power of attorney dated 29.01.2020 in favour of the first accused, who in turn had sold the said property to the second accused and that the defacto complainant has sent a complaint to the Commissioner of Police, Tirunelveli, who in turn forwarded the same to the respondent Police and on that basis, the case has been registered in Crime No.43 of 2020 for the alleged offence under Sections 420, 120(B), 465, 467, 468 and 471 IPC.

3.The petitioners' case is that the first petitioner/2nd accused is the bonafide purchaser for lawful consideration, that the property was originally owned by Sivakamiammal, grandmother of the accused 3 to 8 and after her demise her daughter Thirumalammal, mother of the accused 3 to 8 had been in enjoyment of the property and since she died on 11.02.2014, the accused 3 to 8 had inherited the property and had been enjoying the same, that they had obtained encumbrance certificates pertaining to the property for the period between 01.01.1900 and 26.12.2019 and there were no encumbrance for more than 100 years, that subsequently the petitioners 2 to 7 came to know that the defacto complainant and his brothers have created the forged document and therefore, the petitioners 2 to 7 were constrained to file a suit in O.S.No.130 of 2020 on the file of the I Additional District Munsif Court, Tirunelveli and is pending and that the defacto complainant after coming to know about the suit, has lodged a false complaint against the petitioners and the other accused.

4.It is not in dispute that the petitioners 2 to 7 have filed a suit in O.S.No.130 of 2020 against the defacto complainant and others, claiming the relief of declaration, that the sale deed, dated 14.08.1977 is null and void and for consequential permanent injunction restraining the defendant and their men from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property and that the same is pending on the file of the I Additional District Munsif Court, Tirunelveli.

5.It is also not in dispute that the 9th accused, who is the Sub-Registrar has filed a petition in Crl.OP.(MD)No.12849 of 2020, seeking orders to quash the case as regards in Crime No.43 of 2020 as against the said accused and that this court vide order, dated 01.12.2020, has granted an order of interim stay in respect of the 9th accused alone. It is also not in dispute that the first accused, who is the alleged power agent of accused 3 to 7 has moved a



Court vide order dated 05.03.2021 has granted anticipatory bail. The petitioners have produced the copies of encumbrance certificate for the period between 01.01.1900 and 26.12.2019 and according to them, there were no encumbrances with respect to the property in dispute.

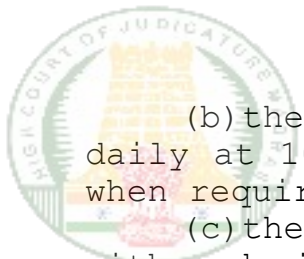
6. When the matter was taken up on 07.09.2021, this Court on considering the submission made by the learned counsel for the petitioners and the learned Government Advocate (Criminal Side), directed the petitioners to appear before the respondent police daily at 10.30 am from 13.09.2021 and co-operate for the enquiry and further directed the respondent police to conduct enquiry, collect information and file a report and also granted interim protection to the petitioners.

7. In pursuance of the directions of this Court, the respondent has filed a report, dated 07.10.2021 and whereunder, it has been stated that the accused 1 to 8 had conspired together and lodged a false complaint as if the sale deed, dated 14.08.1977 was found missing and obtained a document from the concerned police and created a bogus sale deed and got it registered before the Joint Registrar, Palayamkottai. In the report, it has been further stated that so far 12 witnesses have been examined.

8. Considering the entire facts and circumstances and also the facts that there existed civil dispute and consequently civil suit is pending between the parties, that the petitioners have complied with the orders of this Court and appeared before the respondent police as directed and that on the basis of which, after enquiry, the respondent police has filed the report and also the fact that the first accused has already been granted anticipatory bail by this Court and that the petitioners are not having any previous case for similar or serious offence as stated by the learned Additional Public Prosecutor, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, 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, Special Court for Land Grabbing Cases, Tirunelveli on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 conditions 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 am for a period of one month 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 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]***; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
08/12/2021

/ TRUE COPY /

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

DAS

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 Land
Crabbing Cases, Tirunelveli.
2. Do-Through The Chief Judicial Magistrate,
Thirunelveli District.
3. The Inspector of Police,
City Crime Branch, Tirunelveli City.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL OP(MD) No.12399 of 2021
Date : 08/12/2021

TR/JC/SAR-II(16.12.2021) 4P 5C