



WEB COPY

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

Date : 20/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.13006 of 2021

1.Surabi Yarnini
2.Bharath Kumar

... Petitioners 1 & 2/
Accused 3 & 4

Vs

State rep.by
The Inspector of Police,
CCD, Madurai City.
(Crime No.36 of 2020).

... Respondent/Complainant

For Petitioners: M/s.K.S.Durai Pandian K.S.,
Advocate.

For Respondent : M/s.P.Kottai Chamy,
Government Advocate (Crl.Side)

For Intervenor : M/s.G.Mariappan, Advocate.

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

PRAYER :-

For Anticipatory Bail in Crime No.36 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A3 & A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120 (B), 260, 465, 468 and 471 I.P.C in Crime No.36 of 2020, seek anticipatory bail.

2.The case of the prosecution is that, the defacto complainant and the petitioners are co-sharers and having shares in their ancestral property. In order to grab the property, the petitioners along with other accused colluded together and created the forged documents, suppressing the right of defacto complainant in the property. Hence, the complaint.

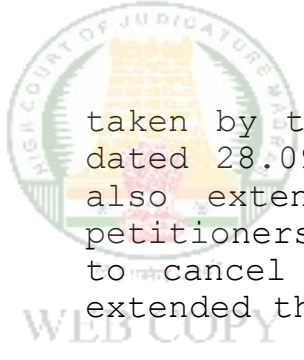


3.The learned counsel for the petitioners would submit that there was a property dispute between the parties and the civil suit is also pending between themselves. The petitioners are none other than the daughter and son-in-law of the second accused and they have not committed any offence as alleged by the prosecution. Hence, he seeks anticipatory bail to the petitioners.

4.The learned counsel for the intervener admitted that there was a property dispute between the parties and the parties are co-sharers of the alleged property. In order to grab the share of the defacto complainant, the petitioners and other accused colluded together, committed criminal conspiracy and fraudulently created the documents by suppressing the right of the defacto complainant. He would further submit that accused no.5 is doing real estate business and is in the habit of dealing with disputed properties by creating forged documents and therefore, the custodial interrogation of accused no.5 is absolutely necessary to recover or to get information regarding the forged documents. The petitioners along with accused no.5 had colluded together and created a fraudulent sale agreement with the help of one Sundararaman who is also an aide in the entire transaction and they have chosen the Sub Registrar Office at Aarani to register the sale agreement. In order to confer jurisdiction, they have purchased one small piece of land at Aarani on 16.06.2021 and after five days, they created a sale agreement in respect of the property to which they have given an undertaking. In pursuance of the above, they have also created a fraudulent forged letter said to have been issued by the Joint Sub Registrar, Madurai South in Letter No.120/2021 as if Madurai Joint Sub Registrar No.I has no objection to register the sale agreement at Joint Sub Registrar, Aarani. Thus, they have created a false and fraudulent sale agreement with a clear mind to disturb the defacto complainant's possession so that they can breach the undertaking before this Court. Hence, he strongly opposed for grant of anticipatory bail to the petitioners.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that accused nos.1 and 2 had created a death certificate and a legal heir certificate of one Venkatavarathan @ Raja Iyyengar and based on that, A1 executed inam settlement deed in favour of A3, who is the daughter of A1 and thereby A3 executed settlement deed in favour of A4, who is the husband of A3 and committed the offence. He would further submit that the investigation is yet to be completed.

6.Considering the facts and circumstances of the case, this Court by earlier order dated 09.09.2021, referred this matter to mediation and appointed one Mr.S.Alagarsamy as mediator in this case. The petitioners have appeared before the mediator and sought time to cancel the documents in question and the same has been reported by the mediator before this Court. Considering the stand



taken by the petitioners, time was granted by this Court by order dated 28.09.2021 till 01.10.2021 for cancelling the documents and also extended the interim order. As per the request of the petitioners, this Court by order dated 01.10.2021, extended the time to cancel the documents from 01.10.2021 to 20.10.2021 and also extended the interim order.

7. When the matter is taken up for hearing today, it appears that the petitioners have not taken any steps to cancel the documents as agreed. The petitioners without taking steps to cancel the documents as per the undertaking, enjoyed the interim anticipatory bail for more than a month.

8. Considering the conduct of the petitioners, and the nature of offence committed by the petitioners, this Court is not inclined to grant anticipatory bail to the petitioners.

9. Considering the manner in which the documents are created, this Court referred this matter to Inspector General of Registration, Chennai to conduct an enquiry how the documents were created at Aarani and if any role played by the officials, ie., Sub Registrar or any other officers, necessary action has to be taken as against the officer concerned who have helped the accused persons in creating the documents.

10. With the above observation, this Criminal Original Petition is dismissed.

Sd/-
20/10/2021

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

PNM/MSA

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 Inspector of Police,
CCD, Madurai City.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Inspector General of Registration,
Chennai.

ORDER
IN
CRL OP (MD) No.13006 of 2021
Date :20/10/2021

SP/JC/SAR II/23/11/2021/4P/4C