



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

Date : 15/11/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.13059 of 2021

WEB COPY

1. T.R.Dhinakaran

2. T.R.D.Kothai ... Petitioners/A1 and A2

Vs

The state represented by
The Sub Inspector of Police,
District Crime Branch,
Virudhunagar.
(Cr.No.13 of 2021)

... Respondent/Complainant

For Petitioners : Mr.Sricharan Rangarajan, Advocate
for M/s.Santhoshkumar P.
Advocate.

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

For intervenor : Mr.N.R.Ilango, Senior Counsel

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

PRAYER :-

For Anticipatory Bail in Crime No.13 of 2021 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of
the respondent Police, for the offence punishable under Sections
420, 465, 468, 471 and 120B in Crime No.13 of 2021, on the file of
the respondent Police, seek anticipatory bail.

2. The defacto complainant T.R.V.Ramkumar filed a complaint
alleging that the properties comprised in Survey Nos.195/2A, 195/2B,
195/3, 1994/4A and 194/4B were purchased in the name of Sri Pattabi
Textiles. Thereafter, as a result of the arbitration, the said Sri
Pattabi Textiles was bequeathed upon Varadharajan, who had settled
the same in favour of his son, T.R.V.Ramkumar. But, A1 had falsely
created forged documents, knowingly very well that he had not
obtained any title over the property and without any valid
documents, obtained permission from the Municipality and constructed
buildings in the above said properties, wherein, A2 is



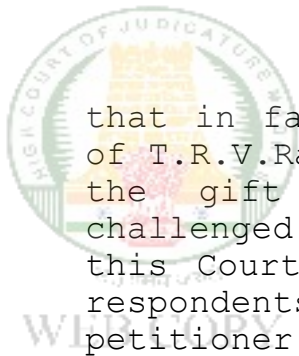
collecting rents illegally till date.

3. Mr.Sricharan Rangarajan, learned counsel for the petitioners submits that the properties in S.Nos.195/2A, 2B, 195/3 and 194/4A and 4B were purchased in the name of M/s.Pattabi Textiles Pvt. Ltd., in the year 1979 and in a portion of the property, SRM Press Factory owned by Shri Ramalinga Mills belonging to the petitioners had put up constructions as early as in the year 1985. The other buildings were constructed between 2011 and 2015. But, the FIR mentions the date of occurrence as 01.08.1996. Therefore, the complaint itself is a false one.

4. The learned counsel for the petitioners further submits that the lands in above survey numbers have a total extent of 9.87 acres and the constructions were put up only on 5.2 ares allotted to SRM Press Factory as per the award. It is borne out of the award that the SRM Press Factory is to be allotted to the first petitioner. As per the Arbitration Award, Pattabi Textiles along with buildings on 4.67 acres of land was allotted to T.R.Varadharajan and SRM Press Factory along with 5.2 acres was allotted to the first petitioner. The entire lands along with Pattabi Textiles were not allotted to the T.R.Varadharajan family solely. Some of the lands belonging to Pattabi Textiles in Muthusamipuram and Sivalarpatti were allotted to the family of T.R.Kannan. SRM Press factory has always been in the name of the first petitioner and the factory license also reflects his name and therefore, he rightfully sought permission to put up the buildings at the relevant point of time. Even according to the Factory License, the SRM Press Factory belonging to the first petitioner is situated in S.No.195. Apart from this, EB receipts and other tax receipts are in the name of the first petitioner.

5. The learned counsel for the petitioners further submits that when the disputes arose, in order to create further problems, T.R.V.Ramkumar entered the SRM Press Factory Premises with his men and beat up several staff members and the second petitioner on 19.08.2021. In this regard, the second petitioner lodged a complaint on 30.08.2021, but, there was no progress. On the other hand, it was only to cover his fraudulent deeds, T.R.V.Ramkumar filed multiple complaints and registered multiple FIRs against the petitioners, which shows the conduct of T.R.V.Ramkumar and the false accusations. He further submits that when the constructions were put up by the first petitioner between 2011 and 2015 and T.R.V.Ramkumar had acquired the property by way of a gift deed only in the year 2016, the allegation that the petitioners have wrongfully constructed buildings in the property belonging to T.R.V.Ramkumar is totally false and as such, no offence is made out. Admittedly, the FIR is filed in the year 2021 when the date of occurrence as per the FIR is 1996.

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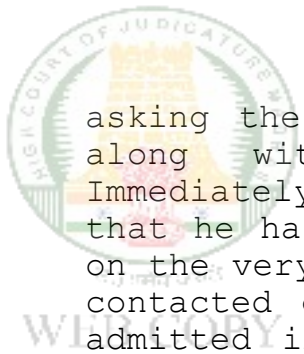
that in fact, when T.R.Varadharajan settled the property in favour of T.R.V.Ramkumar, the first petitioner rejected the registration of the gift settlement deed. The first petitioner immediately challenged the order of rejection in W.P.No.24217 of 2016 before this Court on 15.12.2016, arraying T.R.Varadharajan as one of the respondents and the same is pending. Similarly, the second petitioner has also filed W.P.(MD)Nos.19124 and 19125 of 2021 in the month of October 2021, challenging the settlement deed dated 09.12.2016. When the writ petitions challenging the transfer of the property are pending, the complaints have been filed only to harass the petitioners.

7. The learned counsel for the petitioners also relied upon the Judgments of the Hon'ble Apex Court in the case of **Indian Oil Corporation vs. NEPC India Ltd.**, reported in **2006 (6) SCC 736** and **Govind Prasad Kejriwal vs. State of Bihar**, reported in **2020 16 SCC 714**, wherein, it was held that it is an abuse of process of law and the Court, when a civil dispute is given a colour of criminal proceedings.

8. The learned counsel for the petitioners further submits that the first petitioner is a senior citizen suffering with serious health problem and the third petitioner has nothing to do with the transaction and she is in the spiritual path in a spiritual organization. Hence, he prayed for grant of anticipatory bail to the petitioners.

9. Mr.N.R.Elango, learned Senior Counsel appearing for the defacto complainant submits that Mr.T.Ramasmy Naicker had left behind vast extent of lands to the legal heirs, including the defacto complainant and AI and as such, there are vast properties in the name of the defacto complainant and therefore, the defacto complainant wanted to take an inventory of his property. When he went to inspect his property, he found that the accused had illegally constructed a building in his property and they are collecting and enjoying rents. When he enquired the same, he found that the accused had illegally created forged and fraudulent documents and had used the forged documents to get planning permission from the Municipality for construction of the building. The learned Senior Counsel further submits that the accused patta was rejected by order dated 29.11.2016 by the Tahsildar, Arupukkottai and SRM Press Factory is a non-existent entity. Further, the petitioners have not produced any document before this Court nor served any document upon the defacto complainant to prove their title. Hence, he prayed for dismissal of this petition.

10. The learned Additional Public Prosecutor submits that totally, four cases have been registered against the petitioners. After registering the case in Cr.No.12 of 2021, the respondent Police issued summon dated 27.08.2021 under Section 41-A of Cr.P.C.



asking the accused persons to appear before the respondent Police along with relevant documents for investigation purpose. Immediately after receipt of the summon, the first accused claimed that he has medical ailment and was admitted in a private hospital on the very next day, i.e. on 28.08.2021. When the respondent Police contacted other accused, they informed that the first accused was admitted in a hospital and they are taking care of him and also refused to disclose the name and other particulars regarding the hospital. Till date, neither the petitioners obliged the summon issued under Section 41-A of Cr.P.C. by the respondent Police nor produced any documents to claim that they have right over the properties even before this Court. Since the petitioners are not co-operating for the investigation, the custodial interrogation of the petitioners is required in this case. Hence, he prayed for dismissal of this petition.

11. Both the learned Senior Counsel as well as the learned Additional Public Prosecutor also relied upon the judgment of the Hon'ble Apex Court in the case of **Prasanta Kumar Sarkar vs. Ashis Chatterjee and another**, reported in **2010 14 SCC 494**, wherein, the Hon'ble Apex Court has laid certain conditions, which have to be considered by the Court while deciding the bail petition, which reads as under:

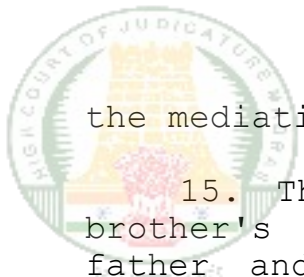
- "(i) Whether there was a *prima facie* or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of accusations;
- (iii) severity of punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if granted bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of repetition of the offence;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger of justice being thwarted by grant of bail."

12. This Court paid its anxious consideration to the rival submissions made.

13. The petitioners and the defacto complainant belong to the same family. Their family is a reputed family. Considering the age of the first petitioner, nature of the allegations, this Court, by order dated 08.09.2021, referred the matter for mediation and also appointed learned counsel Mr.K.K.Ramakrishan, former Additional Public Prosecutor, as Mediator in this case.

14. The Mediator has also filed a report before this Court that

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the mediation failed.

15. The defacto complainant is none other than the younger brother's son of the first petitioner. The first petitioner's father and the defacto complainant's grandfather, one Ramasamy Naicker, was a very big business man having several properties and several business establishments in that area. The partition was made among the family members in the year 1996 and the same was confirmed in an Arbitration Proceedings. The allegation in this petition is that the petitioners have created some documents with regard to the property belonging to the defacto complainant's family in a fraudulent manner.

16. The learned counsel for the petitioners claims that the petitioners' family is having several properties in and around area and therefore, there is no necessity for the petitioners to fabricate the documents and get the properties belonging to the defacto complainant. He further claims that more than 7000 persons are employed under the first petitioner in various firms and the first petitioner is also providing free education to needy children by establishing a school. Further, with regard to the properties, civil litigation is pending before the Civil Court. According to him, a civil dispute is given a colour of criminal proceedings.

17. It is seen that the first petitioner is aged about 82 years. The medical record is also placed before this Court that the first petitioner is suffering with old age ailments. The nature of complaint is based on records and it appears that civil suit is also pending between the parties.

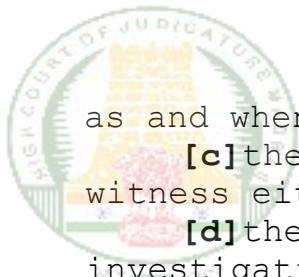
18. Considering the facts and circumstances of the case, the relationship between the parties, the age of first petitioner, the tradition of petitioners' family, the number of employees depending on the petitioners' firm and also the fact that civil dispute is pending, this Court is inclined to grant anticipatory bail to the petitioners.

19. Accordingly, the Criminal Original Petition is ordered. The petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Virudhunagar, 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 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 Aadhaar card or bank pass book to ensure their identity;

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[b] the petitioners shall report before the respondent police



as and when required for interrogation;

[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 are 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]**;

[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/11/2021

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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.

To

1 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, VIRUDHUNAGAR.

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

+1cc to Mr.P.Santhoshkumar, Advocate Sr.No.8156 dated 17.11.2021

ORDER
IN
CRL OP(MD) No.13059 of 2021
Date : 15.11.2021

SB/JC/SAR-II/23.11.2021/6P/6C

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