



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/10/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD) . No.14266 of 2021

1. S.Mariappan

2. Mani @ Manimekalai

... Petitioners/Accused 2 & 5

Vs

The State represented by
The Inspector of Police,
Tirunelveli CCB,
(Land Grabbing)
Tirunelveli District.
Crime No.20 of 2017

... Respondent/Complainant

For Petitioner : Mr.Esakki.K,
Advocate.

For Respondent : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.20 of 2017 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 and A5, who apprehend arrest at the hands of the respondent Police, for the offence punishable under Sections 420, 465, 468 and 471 IPC, in Crime No.20 of 2017, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that a property of vacant land in T.S.No.2529, Ward No.5, Block 23, Re-survey No.2401 and the present S.No.59, Ward-AQ, Block No.22, 34th ward of Melapalayam, Tirunelveli Corporation belonged to one Ramiah Thevar. After the demise of the said Ramiah Thevar, his legal heirs, namely, Subbukutty Thevar and Vellakannu Thevar @ Kasi Thevar inherited the property and enjoyed the same. Thereafter, they gifted the said property to their sister's son Murugan on 12.02.1968. The said Murugan, who was unmarried, died. While so, the petitioners and



other accused, who are the legal heirs of Ramiah Thevar sold the disputed property suppressing the earlier gift deed. Hence, the complaint.

3. The learned counsel appearing for the petitioners submits that the petitioners are innocents and have not committed any offence as alleged by the prosecution and the complaint itself is nothing but a concocted story. He further submits that the issue involved in this case is civil in nature. Instead of approaching the Civil Court, the defacto complainant lodged a criminal complaint. He further submits that there was no valid gift as claimed by the defacto complainant and therefore, by exercising their legal heirship, they sold the property in favour of A6, who is a *bona fide* purchaser and a suit has been filed in O.S.No.588 of 2013 on the file of the First Additional District Munsif Court, Tirunelveli, against the defacto complainant. He further submits that the petitioners were granted anticipatory bail in Cr.M.P.No.3423 of 2017, dated 27.07.2017 by the Principal Sessions Judge, Tirunelveli, after considering the fact that a civil suit is pending in respect of the disputed property. He further submits that this is the second anticipatory bail petition. The earlier anticipatory bail petition was dismissed by this Court on 25.08.2021 in CrI.O.P.(MD) No.10539 of 2021 for non-mentioning of the case number of the anticipatory bail petition filed before the learned Principal Sessions Judge, Tirunelveli. Hence, the present petition.

4. The learned Additional Public Prosecutor submits that the investigation is yet to be completed.

5. Considering the facts and circumstances of the case and also considering the fact that the issue involved in this case is civil in nature, the petitioners are legal heirs of the said Ramiah Thevar and a civil suit is pending before the lower Court, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, the Criminal Original Petition is allowed. 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, 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 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 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]** and;

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

Sd/-

07/10/2021

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

OGY

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,
TIRUNELVELI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
TIRUNELVELI CCB,
(LAND GRABBING),
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.ESAKKI, Advocate (SR-7107[I] dated 08/10/2021)

ORDER

IN

CRL OP (MD) No.14266 of 2021

Date : 07/10/2021