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

Date : 01/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.14880 of 2021

Arumugam Ammal, ... Petitioner/Accused No.1

Vs

State Rep by
The Sub Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District. ... Respondent/Complainant

For Petitioner : M/s. J.Barathan,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.198 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 465, 468 and 471 of IPC, in Crime No. 198 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The petitioner/A1 is the second wife of one Subbiah Pillai, who died in the year 1987. The said Subbiah Pillai, through the first wife one Rakkayee Ammal, had a daughter, namely, Sankarammal. The said Sankarammal has two sons, namely, Seenivasan and Selvam. The defacto complainant, Seenivasan, is the second son of the said Sankarammal.

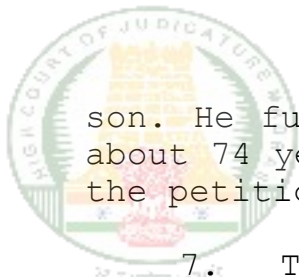


3. The allegation against the petitioner is that the petitioner/A1 and her son, Shanmugam/A2, had fraudulently obtained patta in respect of the properties in Survey No.144/6B2, 170/8A, 95/5B, 27/5C and 49/12B, Thiruppachethi North village, Thiruppuvanam Taluk, Sivagangai District and the properties in Survey Nos.393/8, 352/3C and 365/3C, Yenathi Village, Thiruppuvanam Taluk, Sivagangai District, belong to the said Subbiah Pillai, which had not been partitioned. Hence, the complaint.

4. The learned counsel for the petitioner submits that the properties in Survey No.144/6B2, 170/8A, 95/5B, 27/5C and 49/12B, Thiruppachethi North village, Thiruppuvanam Taluk, Sivagangai District, absolutely belonged to the petitioner. The properties in Survey Nos.393/8, 352/3C and 365/3C, Yenathi Village, Thiruppuvanam Taluk, Sivagangai District belonged to her son, Shanmugam/A2. The patta for the said properties stands in her name for the past more than twenty years. Some of the properties had been obtained by her and her son in the oral partition effected between her, her son and the defacto complainant and his brother.

5. The learned counsel for the petitioner further submits that the petitioner had mortgaged the property in Survey No.170/8, Thiruppachethi North Village, measuring 73 cents equivalent to 0.29.5 hectares through a registered mortgage deed dated 21.03.2012 in favour of Selvam, who is the brother of the defacto complainant. The said mortgage deed had been registered as Document No.2483 of 2012 on the file of the Sub Registrar, Thiruppuvanam. She had also settled some of her properties through a registered settlement deed dated 03.05.2013 in favour of her son, Shanmugam. The said settlement deed had been registered as Document No.3632 of 2013 on the file of the Sub Registrar, Thiruppuvanam. He had also mortgaged some of his properties through a registered mortgage deed dated 21.05.2015 in favour of one Kanagalakshmi. The said mortgage deed had been registered as Document No.2388 of 2015 on the file of the Sub Registrar, Thiruppuvanam. The said mortgage had been redeemed and a discharge receipt dated 03.04.2019 had been registered as Document No.984 of 2019 on the file of the Sub Registrar, Thiruppuvanam.

6. The learned counsel for the petitioner submits that in the year 2006, Sankarammal raised disputes about the partition of the properties of Subbiah Pillai. She gave a petition to the Zonal Deputy Surveyor, Manamadurai Taluk, to measure the property in Survey No.170/8. The Surveyor also measured the property and identified the boundaries. The mother of the defacto complainant Sankarammal raised objections and hence, the Tahsildar, Manamadurai Taluk had issued a memo dated 18.09.2006 directing the parties to approach the Civil Court. But, the said Sankarammal did not file any suit before any Court of law. Now, all of a sudden, the defacto



son. He further submits that the petitioner, being a lady, is aged about 74 years. Hence, he prayed for grant of anticipatory bail to the petitioner.

7. The learned Government Advocate (Crl. Side) submits that the investigation is yet to be completed.

8. This Court perused the materials available on record.

9. The patta with regard to the properties in dispute stands in the name of the petitioner and her son, namely, Shanmugam/A2. The petitioner also executed a mortgage deed in favour of selvam, who is the brother of the defacto complainant in the year 2012. The said mortgage deed had been registered as Document No.2483 of 2012 on the file of the Sub Registrar, Thiruppuvanam. Apart from that, she also settled some of the properties in favour of her son Shanmugam in the year 2013. The said settlement deed had been registered as Document No.3632 of 2013 on the file of the Sub Registrar, Thiruppuvanam.

10. Considering the facts and circumstances of the case, the age of the petitioner, the registered mortgage deed and settlement deed already executed before the Sub Registrar Office, this Court is inclined to grant anticipatory bail to the petitioner.

11. Accordingly, the Criminal Original Petition is allowed. The petitioner is directed to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thiruppuvanam, Sivagangai District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner 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;

[b] the petitioner shall report before the respondent Police once in a week of every Monday at 10.30 am., until further orders.

[c] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the petitioner 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 was 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
01/10/2021

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/ /2021
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,
Thiruppuvanam, Sivagangai District.
2. Do-Through The Chief Judicial Magistrate,
Sivagangai District.
3. The Sub Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-6835[I] dated 01/10/2021)

ORDER IN
CRL OP(MD) No.14880 of 2021
Date : 01/10/2021

TR/PN/SAR-IV(11.10.2021) 4P 6C