



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

Date : 01.11.2021

PRESENT

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The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.15416 and 15457 of 2021

1.Venkatesh
2.Muthukumar
3.Chidamparakumar
4.Balamurugan
5.Gnanaraj

... Petitioners/Accused No.1 to 5
in Crl.OP (MD) No.15416/21

Poolpandi

... Petitioner
in Crl.O.P (MD) .No.15457 of 2021

Vs

The State rep. by,
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime.No.16 of 2021

... Respondent/Complainant
in both petitions

For Petitioners : Mr.R.Anand, Advocate
in Crl.OP (MD) No.15416/21

For Petitioner : Mr.R.Pon Karthikeyan, Advocate
in Crl.OP (MD) No.15457/21

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor
(In both Cases)

For Intervenor : Mr.K.Jeyamohan, Advocate
(In both cases)

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

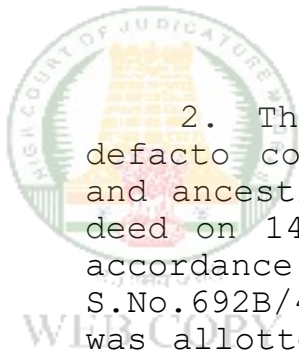
COMMON PRAYER :-

For Anticipatory Bail in Crime No.16 of 2021 on the file of
the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent Police, for the offence punishable under Sections 420,
465, 467, 468, 471 of IPC in Crime No.16 of 2021, on the file of the
respondent Police, seek anticipatory bail.

<https://hservices.eprts.gov.in/hservices/>



2. The prosecution case is that one Narayanasamy Reddiyar, defacto complainant's grandfather, is having several self-acquired and ancestral properties and he has executed a registered partition deed on 14.07.1972 and divided all his properties to his sons. In accordance to the said registered partition deed, the property in S.No.692B/4A situated at Pudhukulam Village, Palayamkottai Taluk, was allotted to the defacto complainant's father, Anandapadmanaban. This was also reflected in the revenue records. Anandapadmanaban died in the year 2007 and thereafter, the defacto complainant is looking after the property. While so, the defacto complainant came to know that the accused nos.1 & 2 have created a release deed document on 21.01.2020 with their mother and sister, that they are relinquishing their shares to the said accused over certain properties. Thereafter, they have created a power of attorney document on 23.12.2020 registered at Chennai and included the property of the defacto complainant in S.No.692B/4A in the schedule of properties. Through the power deed, the accused have also sold the property to the fourth accused, through a registered deed dated 09.03.2021. Thereafter, the property was reconveyed to the fifth accused by a registered sale deed dated 15.03.2021, who, in turn, has sold the property to one Poolpandi / petitioner in Crl.OP(MD) No.15457 of 2021. Hence, the complaint.

3. The learned counsel for the petitioners submits that the petitioners are innocents, they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that these are the second applications filed by the petitioners and the earlier applications filed by them in Crl.O.P(MD).Nos.12048 and 12101 of 2021 were dismissed by this Court on 20.09.2021, by an elaborate order.

4. When the matter is taken up for hearing on 22.10.2021, the learned counsel for the petitioners would submit that without prejudice to the petitioners' defence in the criminal case, they have advised the petitioners to cancel the documents that are subject matter in these petitions, to show their bona fide, which may be considered as a change in circumstances for this Court to consider these second applications. Based on the above said submissions, this Court had granted interim protection to enable the petitioners to cancel the documents that are subject matter in the criminal case and posted the case on 01.11.2021.

5. Today i.e on 01.11.2021, when the matter is taken up for hearing, the learned counsel for the petitioners submitted that petitioners cancelled the documents that are subject matter in these petitions, as undertaken by them and also they have filed an undertaking affidavit to that effect before this Court. The relevant paragraph from the affidavit is extracted as follows:-

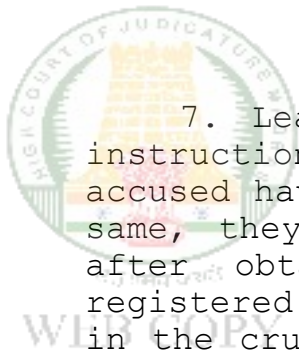


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''4)We submit that after the dismissal of the anticipatory bail applications, we have decided to establish our title in respect of the disputed property, which is shown as item No.4 in the power of attorney, before the competent Civil Court. Therefore, we filed the second anticipatory bail application in Crl.O.P(MD). NO.15416 of 2021 before this Court. During the hearing of the anticipatory bail application on 22.10.2021, we undertook to cancel the documents which were executed on the basis of the power of attorney. This Hon'ble Court also recorded the said undertaking and granted interim protection to us, enabling us to cancel the documents. Accordingly, on 28.10.2021, the sale deeds stood in the name of Poolpandi, Gnanaraj and Balamurugan were cancelled vide registered Document No.8753/2021, 8754/2021 and 9907 of 2021 on the file of the Melapayam Sub-Registrar.

5)We further submit that, we hereby, undertake that we will not deal with the property shown as Item No.4, which is the subject property of Crime No.16 of 2021 in any manner on the strength of the power of attorney. We further undertake that we will not create any encumbrances in respect of the said property without prejudice to our contention in the Criminal cases well the civil case which we proposed to institute to establish our title. We further state that, we will establish our right and title in respect of the subject property, before the competent Civil Court and we will abide by the outcome in the said proceedings."

6. Learned Counsel for the defacto complainant /intervenor has made his submissions that the petitioners have created a forged power of attorney deed and also subsequent documents without any valid title. The accused claim right over the property through the power of attorney dated 23.12.2020, tracing the title from partition deeds of the year 1919 and 1938, which have no relevancy to the property in dispute. With the strength of the power deed, they have managed to create the revenue records. Apart from the property of the defacto complainant, the power of attorney document shows properties belonging to several other persons as well, which does not belong to the accused persons. The accused have caused a huge fraud as against the society and attempted to illegally grab the lands of many persons. Only on custodial interrogation, the truth will come out and therefore, he prayed for dismissal.



7. Learned Government Advocate for the respondent police, on instructions, submitted that in the strength of the power deed, the accused have mutated the revenue records and in the strength of the same, they have created several documents. After verification and after obtaining necessary opinion, the respondent police has registered the case in Crime No.16 of 2021 and the investigation is in the crucial stage. Only by arresting the accused, they can find out the volume of fraud committed by the petitioners and therefore, he prayed for dismissal.

8. Considering the facts and circumstances of the case and also the undertaking affidavit filed by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners.

9. Accordingly, this criminal original petition is allowed and the petitioners are ordered 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, Anti Land Grabbing Special Court, Tirunelveli, Tirunelveli District, 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.

[b] the petitioners shall report before 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 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]**.

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

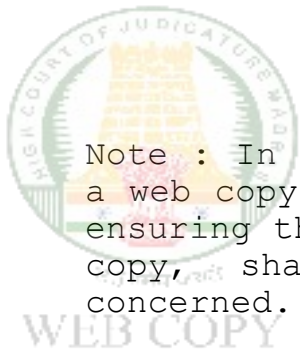
sd/-

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



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,
ANTI LAND GRABBING SPECIAL COURT,
TIRUNELVELI, TIRUNELVELI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TIRUNELVELI,
TIRUNELVELI DISTRICT

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

+1 CC to M/s.K.PRABHU, Advocate (SR-7749[I] dated 01/11/2021)

ORDER
IN
CRL OP(MD) No.15416
& 15457 of 2021
Date :01/11/2021

TTA

SS/JC/SAR-II/16.11.2021 : 5P/6C