



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

Reserved on	Pronounced on
14.07.2021	19.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN
CRL OP(MD). No.15817 of 2020

1. P. Ponselvaraj, ... Petitioners/Accused No.1

Vs

State through Rep. by
The Inspector of Police,
District Crime Branch,
Thoothukudi District
Cr No. 10/2015..

... Respondent/Complainant

For Petitioner : Mr.R..Anand
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

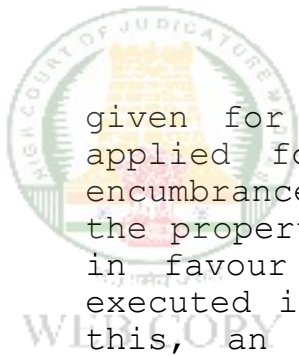
PRAYER :-

For Anticipatory Bail in Crime No.10 of 2015 on the file of the
Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, apprehending arrest at the hands of the
respondent police for the alleged offence punishable under sections
120(B), 465, 468, 471 and 420 I.P.C., in Cr.No.10 of 2015 on the
file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto
complainant's father is one K.S.Jeyasingh. His father had done his
masters in UK and owned several properties in the family partition.
One Suriyakala is his second wife. He purchased properties from the
income derived from his family properties in the name of his second
wife Suriyakala. The defacto complainant and his family members
including Jeyasingh and Suriyakala had been enjoying the properties
jointly. In a partition between the defacto complainant and his
family members, those properties had been shown as joint family
properties. Suriyakala died on 24.06.2007. Prior to that, she had
executed a Will in favour of K.S.Jeyasingh on 29.09.1999 bequeathing
all her properties in favour of him. Probate O.P.No.164 of 2008 was
filed before the Subordinate Court, Tuticorin, then K.S.Jeyasingh
died on 30.06.2008. As per legal advise, instructions had been



given for withdrawing the Probate O.P. The defacto complainant applied for encumbrance certificate to effect partition. The encumbrance certificate showed that a settlement deed in respect of the properties of Suriyakala had been executed by P.Pon Selvaraj in favour of his son Ruban Palraj. This settlement deed was executed in the office of Sub-Registrar, Mukkoodal. To facilitate this, an extent of 630sqft was purchased in Ariyanakipuram on 10.09.2014. In the settlement deed, it is mentioned that Pon Selvaraj was given this property by Suriyakala through a Will dated 05.01.2007. Pon Selvaraj is not related to the defacto complainant or Suriyakala. He has cheated and he had fabricated the Will dated 05.01.2007 with the help of his wife, son and other accused in this case. Subsequently, a settlement deed in favour of his son-the third accused has been executed. The day prior to the complaint given, at about 03.00p.m, the defacto complainant visited the cemeteries of his father K.S.Jeyasingh and Suriyakala. The accused Pon Selvaraj and other persons tried to clean the area. When the defacto complainant asked him what they are doing in their place, the accused Pon Selvaraj criminally intimidated the defacto complainant by showing long knife and said that he would murder him, if he comes claiming right in the property. Therefore, this case came to be registered.

3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. It is his submission that Suriyakala was badly treated by the defacto complainant and his family members. She was suffering from cancer and she was not taken care by the defacto complainant and his family members. The first accused had taken care of her treatment and her properties. Therefore, Suriyakala had executed a Will in respect of her properties in favour of the first accused Pon Selvaraj on 05.01.2007. After the death of Suriyakala, the first accused became absolute owner of her properties. He, in turn, had executed a settlement deed in favour of his son-third accused on

11.09.2014. The Will alleged by the defacto complainant is not true. The Will has no details with regard to the properties, for which, the Will is executed. The defacto complainant tried to probate this Will and subsequently, not proceeded with the probate. It shows that the Will dated 29.09.1999 is not true. Therefore, he seeks anticipatory bail to the petitioner. In support of his submissions, he produced a copy of Will allegedly executed by the deceased Suriyakala in favour of the defacto complainant's father, on 29.09.1999, copy of the register showing the presentation of probation original petition No.164 of 2008, copy of death certificate of K.S.Jeyasingh, copy of gift deed dated 11.09.2014.

4. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the first accused has involved in similar offence registered in Cr.No.1 of 2019 on the



also a case of forging the document, with a view to usurp the property of the original owner. Hence, he prays for dismissal of this petition.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

6. In the case before hand, the investigation by the police reveals that the Will, on the basis of which the accused Pon Selvaraj claims right in the properties of Suriyakala, is a forged Will. The Will was sent to Forensic Science Laboratory, Madurai for comparison of signature of Suriyakala. An expert opinion was given on 23.03.2020. The report reveals that the signature of Suriyakala in the Will dated 05.01.2007 did not match with her signature. The accused 1 to 3 filed a petition in Crl.O.P.(MD)No.13154 of 2019 for quashing the F.I.R. After considering the materials, this Court dismissed the quash petition, by order dated 23.09.2019 and directed the respondent to file final report.

7. It is also seen from the earlier order of this Court dated 04.03.2021, the District Revenue Officer, by his order dated 10.05.2018, had cancelled the patta obtained by the petitioner using the forged documents. A bare look of the alleged signature of Suriyakala in the Will dated 05.01.2007 appears different from each other in every page. The minute details given in the Will shows the recitals are not natural. The first accused is not a blood relative of the deceased Suriyakala. The reason stated for executing the Will in his favour is far from genuineness, spontaneity and acceptability. The Forensic Science handwriting expert report shows that the alleged signatures of Suriyakala in the Will dated 05.01.2007 have not matched with her signature. Therefore, without going deep into the merits of the case, this Court is of the considered view that there is more than *prima facie* material available to show that the Will dated 05.01.2007 alleged to have been executed by Suriyakala in favour of the first accused may not be true and genuine one. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-
19/07/2021

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/ /2020
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 Inspector of Police,
District Crime Branch,
Thoothukudi District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.15817 of 2020
Date : 19/07/2021

TR/SRS/SAR-II (22.07.2021) 4P 3C