



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

Date : 04/03/2021

PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

CRL OP(MD). No.15746 of 2020

Surendar

... Petitioner/Accused No.4

Vs

State Rep.by  
The Inspector of Police,  
District Crime Branch,  
Tuticorin District.  
In Crime No.10/2015.

... Respondent/Complainant

For Petitioner : Mr.C.Susi Kumar,  
Advocate.

For Respondent : Mr.M.Chandrasekaran,  
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-4 apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120(B), 465, 468, 471 and 420 of IPC, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the subject property is owned by one Suryakala, who happens to be the second wife of the defacto complainant's father. She executed a Will in his favour in respect of the subject property. After the demise of the father of the defacto complainant, the defacto complainant being a legal heir of the deceased father filed a petition to probate in O.P.No.164 of 2008 on the file of the Sub Court, Thoothukudi. When the said petition was pending, A1 also claimed by fabricating the signature of the defacto complainant that the said Suryakala was under his care and executed a Will in his favour in respect of the subject property on 05.01.2007 and he executed a settlement deed on 11.11.2014 in favour of A3 in respect of the said property, on the strength of the Will executed by the said Suryakala. Hence the



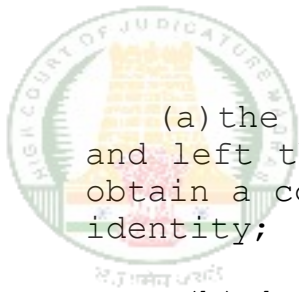
3.The learned counsel appearing for the petitioner would submit that there are totally four accused, in which the petitioner is arrayed as A4. He would further submit that the petitioner stood as a attesting witness to the Will, dated 05.01.2007, which is said to have been executed by Suriyakala in favour of Ponselvaraj. The petitioner along with A-2 attested as the witnesses. This Court has granted anticipatory bail to A-2, who is the similarly placed accused in CrI.O.P.(MD)No.15186 of 2020, dated 18.12.2020. Hence, he prayed for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (CrI.Side), appearing for the respondent police submitted that there are totally four accused in this case. All the accused conspired together and to probate the property belongs to the defacto complainant. They fabricated a Will executed on 05.01.2007 and on the strength of the Will, the first accused executed a settlement deed in favour of A3. She further submitted that A3 was arrested and remanded to judicial custody. Hence, she prayed to dismissal of this petition.

5.It is seen that there are totally four accused, in which the petitioner is arrayed as A4. According to the case of the prosecution one Suryakala claiming to be a second wife of the defacto complainant's father executed a Will in his favour. After demise of the defacto complainant's father, the defacto complainant is being the legal heir filed a petition to probate the same on the file of the Sub Court and it is still pending. In that petition, the first accused has filed a petition claiming that the subject property stands in her name by way of Will, dated 05.01.2007, executed by the said Suryakala while she was under the care of the first accused. As far as the petitioner is concerned, he is a attesting witness in the Will, which is said to have been executed by Suriyakala in favour of Ponselvaraj and the petitioner along with A-2 had attested as witnesses and A-2 was already granted anticipatory bail by this Court.

6.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Special Court for Anti-Land Grabbing Cases, Thoothukudi District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition 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 Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police as and when required for interrogation.

(c) the petitioner shall not tamper with 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 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/03/2021

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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,  
SPECIAL COURT FOR ANTI-LAND GRABBING CASES,  
THOOTHUKUDI DISTRICT.
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH, TUTICORIN DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.15746 of 2020

Date : 04/03/2021