



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

Date : 21/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.16075 of 2020

1.S.K.S.Sivayogi

2.S.K.S.Somu

... Petitioners/Accused Nos.10 & 11

-Vs-

The State rep by
The Inspector of Police,
District Crime Branch,
Anti-Land Grabbing Special Cell,
Dindigul District.
(Crime No.16 of 2020)

... Respondent/Complainant

For Petitioners : Mr.J.Lawrance, Advocate

For Respondent : Mr.R.Srinivasan, Government Advocate(Crl.Side)

For Intervenor : Mr.S.Ravi, Advocate

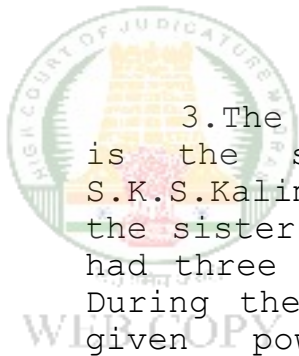
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.16/2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused Nos.10 and 11, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 294(b), 420, 467, 468 and 506(ii) of I.P.C., seek anticipatory bail.

2.The gist of the case is that S.K.S.Kalimuthu Pillai had one son and three daughters and he owning the property near Ottanchathiram. The first petitioner is the son and the defacto complainant is the daughter of the said S.K.S.Kalimuthu Pillai. The said S.K.S.Kalimuthu Pillai had given power of attorney to A-1 for 33 cents in the year 2005 and he died on 07.01.2008. After demise of the principle, on 23.05.2008, by using the power of attorney, a sale deed were executed by A-1 in favour of A-2 to A-4. Subsequently, the said land was sold to A-5 to A-7. The complaint came to be lodged on the direction of the Additional Mahila Court (Magistrate Level), Dindigul, which was forwarded under Section 156



3.The contention of the petitioner is that the first petitioner is the son and the second petitioner is the brother of S.K.S.Kalimuthu Pillai. The defacto complainant is none other than the sister of the first petitioner. The said S.K.S.Kalimuthu Pillai had three daughters and they were married and residing separately. During the life time of the said S.K.S.Kalimuthu Pillai, he had given power of attorney to A-1. Thereafter, the said S.K.S.Kalimuthu Pillai had also executed the Will in favour of the first petitioner and her wife in the year 2007. The petitioner's mother died in the year 2009 and prior to which, she settled her share in favour of the first petitioner. During the life time of the first petitioner's father, he had sent a reply notice to the notice of the daughters, in which he has clearly stated that the daughters have got no share in the property and for them lavish expenses have been made during marriage and customary presents were made and hence, they have no right over the property.

4.The further contention of the petitioner is that the signature in the sale deed, which is alleged to have been signed by the petitioner, was disputed and he had filed a civil suit in this regard in O.S.No.167 of 2010 on the file of the Additional Sub Court, Palani, seeking for declaration. Further, he has also filed the civil suit against the purchaser of the land in O.S.No.106 of 2019 on the file of the learned Additional District Court, Palani. The alleged transaction said to have taken place in the year 2008 and now after 12 years, a false complaint had preferred by the de facto complainant. There are claim and counter claim suits pending between the petitioner and the defacto complainant and other sisters. The second petitioner is the brother of S.K.S.Kalimuthu Pillai, who is aged about 91 years and he had also falsely implicated in this case.

5.The learned counsel appearing for the intervener submitted that after demise of the Principle on 07.01.2008, the sale deeds were executed in favour of A- 2 to A-4 on 23.05.2008 and thereafter, the said land was sold to A-5 to A-9 and forged documents have been created. He would further submit that the said S.K.S.Kalimuthu Pillai had executed the power of the attorney in favour of A-1 in the year 2005. The power of attorney have been acted upon after demise of principle. The defacto complainant was disputed with regard to the settlement and Will. Even during the life time of said S.K.S.Kalimuthu Pillai, the defacto complainant has raised the said issue. Further, the petitioners herein knowing very well about the demise of the said S.K.S.Kalimuthu Pillai, using stale power of attorney had executed the sale deed. Thus clear case of creating the foraged document and the same has been proved.

6.The learned Government Advocate for the respondent police submitted that the case came to be registered on the direction of the Additional Mahila court (Magistrate Level), Dindigul, which was



Investigation was commenced and collection of document have to be made and specimen signature of the accused and others have to be collected. In view of the same, custodial interrogation is necessary. The petitioners are the son and brother of the said S.K.S.Kalimuthu Pillai and they were instrumentally created forged document and thereby, denying the rightful share of the defacto complainant. Hence, he opposes the bail application.

7.Considering the rival submission and on perusal of the materials available in the typed set of papers, it is seen that the crux of the issue is that the said S.K.S.Kalimuthu Pillai, who had executed the power of attorney in favour of A-1 in the year 2005. After the demise of said S.K.S.Kalimuthu Pillai on 07.01.2005, using the stale power of attorney, sale deeds were executed on 23.05.2008. There are civil suits pending between the first petitioner and the de facto complainant as well as the other purchaser of the property. Further the case has been registered under Section 156(3) Cr.P.C. The offence is document base and the documents are registered one, which are available in the Registration Office. The alleged offence said to have committed in the year 2008 and the complaint made only in the year 2020. Prior to which, there are civil suits and cases pending against each other.

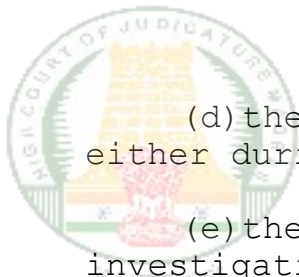
8.In view of the same, this Court is inclined to grant anticipatory bail with certain conditions.

9.Accordingly, 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 No.II, Dindigul, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each 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 respondent police shall resort to Section 311 of Cr.P.C., in obtaining specimen signature of petitioners and the petitioners shall appear before the respondent police for providing signature;

(b)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 Aadhar card or Bank pass Book to ensure their identity;

(c)the first petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and as and when required and the second petitioner shall report before the respondent police as and when required for interrogation.



(d)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioners shall not abscond either during investigation or trial;

WEB COPY (f)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 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;

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

sd/-
21/01/2021

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/ /2021
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 NO.II, DINDIGUL.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
3. THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
ANTI-LAND GRABBING SPECIAL CELL, DINDIGUL DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.J.LAWRANCE, Advocate SR.No.428

ORDER
IN
CRL OP(MD) No.16075 of 2020
Date :21/01/2021CP

MS/VR/SAR-3/05.02.2021/4P.6C

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