



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

Dated: 22/12/2021

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

WEB COPY

Crl.OP(MD)No.18408 of 2021

1.Vinoth Kumar

2.Jeyakumar

3.Athipan Vidyakar

... Petitioners/Accused No.2,3,4

Vs.

The State rep.by,
The Inspector of Police,
Silaiman Police Station,Madurai.
(In Crime No.456 of 2021)

... Respondent

Vellaisamy

Intervening Petitioner/Defacto Complainant
IN CRL MP(MD)No.10142 of 2021

For Petitioners : Mr.R.Ramasamy, Advocate.

For Respondent : Mr.S.Manikandan,
Government Advocate(Criminal side)

For Intervener : M/s.Porkodi Karnan
for M/s.Polax Legal Solutions

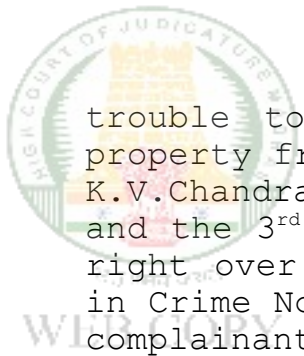
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory Bail in Crime No.456 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who were arrayed as A2 to A4 apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 447, 427, 506(i) IPC, in Crime No.456 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the property situated in Survey No.250/1-A extenting about 3 acres situated Virathanoor Village, Madurai South Village, was in possession of one Neelamegam Pillai and the de-facto complainant was the cultivating tenant in the above said property. So considering the possession of the de-facto complainant as cultivating tenant, they entered into sale agreement, dated 15/08/1989, which is unregistered one. The sale consideration was fixed at Rs.9,000/-. Time was also fixed for execution of the sale deed. But ever-since, the de-facto complainant was in possession and enjoyment. The accused persons 1 to 3 caused



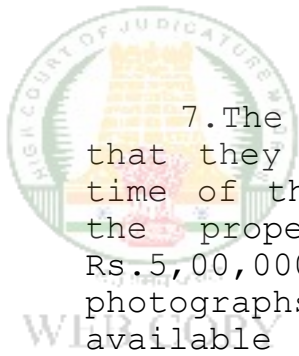
trouble to the possession. They claimed that they purchased the property from the above said Paramasivam, in 1983. The purchaser was K.V.Chandrakaran, who in-turn sold the property to one N.V.Anuradha and the 3rd accused namely Athipan Vidyakar in 2021. So they claimed right over the property and caused trouble. In this regard, a case in Crime No.21 of 2021 has also been registered against the de-facto complainant for the offences punishable under sections 465, 468, 420, 447 and 506(ii) IPC on the file of the District Crime Branch (ALGC), Madurai. A suit in O.S No.259 of 2021 is also filed for declaration in respect of the above said property on the file of the 6th Additional District Court, Madurai. During the pendency of the above said suit, on 05/09/2021 the respondents 1 to 3 along with their henchmen entered into the property with tractor and poclain and destroyed the agricultural crops worth about Rs.5,00,000/-. Based upon which, the case in Crime No.456 of 2021 has been registered.

3. Seeking anticipatory bail, the petitioners filed this petition. The Intervener also heard. He has also filed typed set of papers.

4. Heard both sides.

5. Perusal of the records shows that earlier the petitioners moved anticipatory bail application along with A1 before the Principal District Judge, Madurai, in Crl.M.P No.5725 of 2021. By order, dated 20/11/2021, only A1 was granted anticipatory bail. These petitioners are concerned, the petition was dismissed on the ground that the property namely tractor, which is involved in the above occurrence and poclain were not recovered.

6. According to the de-facto complainant, more than Rs.5,00,000/- worth crops have been damaged. Noting the above, the anticipatory bail application filed came to be dismissed. But whereas, finding that A1 is a lady anticipatory bail has been granted. It appears that it is a civil dispute between the de-facto complainant and the petitioners herein. The petitioners claimed that they have right over the property, which is purchased by the de-facto complainant and the de-facto complainant says that these petitioners are not at all in possession of the property and ever-since in their possession, they are cultivating ground nut etc., and they also filed a suit seeking declaration. When these petitioners raised title dispute with regard to the property, now the suit is pending before the concerned court as mentioned above. So who is possession of the property, is a matter for consideration in the civil suit. Whether these petitioners are cultivating tenants or not cannot be a matter for consideration and discussion in this application and it requires proper evidence on trial. So, this court is not making any observation and finding over the above said suit.



7.The learned counsel appearing for the intervener would submit that they have produced sufficient materials to show that at the time of the above said occurrence, these petitioners entered into the property illegally and damaged the crops worth about Rs.5,00,000/- and for that purpose, she has also produced the photographs. So these photographs shows that only tractor is available in the property. But whether, it relates to the disputed property or not is a matter for investigation.

8.The entire CD file is also produced. The CD file has been called for to find out, whether there is any indication about the crops damage in the place of occurrence.

9.Perusal of the Parvai Mahazar, no such indication has been mentioned in the four boundaries of the land, which have been shown. In the rough sketch, we see the indication to the effect that the plaintain crops have been planted and ground-nuts were also available. Whether they have been damaged or not, no materials have been collected during the course investigation. But the photographs as mentioned above show that only tractor is found in the field. As mentioned above, it is relating to the property or not is a matter for investigation. We also see that poclain was operating in the field. Similarly, it is relating to the disputed property is not clear on record.

10.But however, the photographs of the tractor has been collected only during the course of investigation. We find the tractor bearing Registration NO.TN-84-K-4453 and the owner details were also available in the CD file. So the Investigating Officer can very well seize the above said vehicle as well as the poclain and conduct investigation about the involvement of the offence. Similarly, with regard to the value of the crops that has been damaged, no material has been collected so far. Who planted the above said plants is a matter for investigation and trial before the concerned court. When both the parties claim right over the property, it may not be proper on the part of this court to give such a finding and it may cause trouble to the parties during the course of trial, both criminal as well as civil suits. Finding that A1 already grated anticipatory bail, as noticed by the Principal Sessions Judge, Madurai, except the offence under section 502(i) IPC, all other offences are bailable in nature, even reading of the complaint shows that only verbal abuse and threat has been made, in the facts and circumstances of the case, no custodial interrogation may be required in this case.

11.As mentioned above, against the de-facto complainant also, a case has been registered and it is also under investigation in Crime No.21 of 2021, which is dated 14/09/2021. This occurrence is stated to be on 15/09/2021. But whereas the complaint has been given only on 11/10/2021, which means after a lapse of more than 25 days, the complaint has been given. But whereas, the FIR in Crime No.20 of 2021 is registered on 14/09/2021, which means after the



registration of the FIR in Crime No.21 of 2021. This complaint has been given on 11/12/2021, as if the occurrence took place on 15/09/2021. In the counter complaint, Athipan Vidyakar who is A3 herein is stated that on 12/06/2021 at about 10.00 am, the de-facto complainant's party trespassed into the above property and tried to block the field. When that was objected, they were criminally intimidated. So it appears that the petitioners claimed that when they are trying to enter into the property, the other party caused trouble. So it is a fittest case to grant anticipatory bail to the petitioners with conditions.

12.In the view of the above, I am inclined to **grant anticipatory bail** to the petitioners with certain conditions.

13.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.II, Madurai and on each of them executing 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 am until further orders. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

sd/-

22/12/2021

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/ /2022

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, MADURAI.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION, MADURAI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to MR.R.RAMASAMY, Advocate (SR-9672[I] dated 23/12/2021)

ORDER IN

CRL OP(MD) No.18408 of 2021

Date :22/12/2021