



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :16.03.2022

Pronounced on :22.03.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.Nos.5454 and 5601 of 2022

Crl.O.P.No.5454 of 2022:

Mrs.S.Sharmila

... Petitioner

/versus/

State rep.by
The Inspector of Police,
T-1, Ambattur Police Station,
Chennai 600 053.
(Crime No.14 of 2022)

... Respondent

Prayer: Criminal Original Petition has been filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of her arrest in connection with the Crime No.14 of 2022 pending investigation on the file of the Inspector of Police, T-1, Ambattur Police Station, Chennai 600 053.

For Petitioner : Mr.Perarasu

For Intervenor : Mr.Manoj Sreevalsan

For Respondent : Mr.S.Santhosh
Govt. Advocate (Crl.Side)

Crl.O.P.No.5601 of 2022:

1.Muthukumar
2.Karthick
3.Chitra

... Petitioners

/versus/



State rep.by
The Inspector of Police,
T-1, Ambattur Police Station,
Chennai.

(Crime No.14 of 2022)

... Respondent

Prayer: Criminal Original Petition has been filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest at the hands of the respondent pending investigation in Crime No.14 of 2022 on the file of the respondent police.

For Petitioners : Mr.S.Senthilvel

For Respondent : Mr.S.Santhosh
Govt. Advocate (Crl.Side)

COMMON ORDER

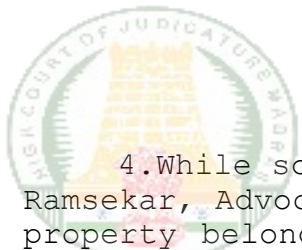
In Crl.O.P.No.5454 of 2022: the petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 465, 466, 468, 471, 420, 447 and 506(ii) of IPC in Crime No.14 of 2022, seeks anticipatory bail.

In Crl.O.P.No.5601 of 2022: the petitioners/A4,A6 and A7, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 465, 466, 468, 471, 420, 447 and 506(2) of IPC in Crime No.14 of 2022, seek anticipatory bail.

2.The petitioners herein, who are shown as A2, A4, A6 and A7 in the FIR registered in Crime No.14 of 2022, apprehending arrest by the respondent police for alleged offences under Section 465,466,468,471,420,447,506(2) IPC is before this Court seeking Anticipatory Bail.

3.The First Information Report registered on 05/01/2022 based on the complaint given by one Krishnamurthy, which reads as below:-

"The property in dispute was purchased by Kittappa the father of K.K.Sridhar in the year 1962 from one Nagarathinammam. The said Kittappa settled the property to his son K.K.Sridhar under settlement deed dated 22/07/1991. Since 1959 the encumbrance certificate trace title vested with them. K.K.Sridhar, S/o Kittappa has given a power of attorney to Krishnamurthy (defacto complainant) vide a registered power of attorney deed dated 19/07/2021. He also entered into a sale agreement in respect of the house sites for Rs.46 lakhs.



4.While so, one Sudarsanam, his wife and relatives along with one Ramsekar, Advocate by profession had created false documents as if the property belongs to one Srinivasan, the father of the first accused Sudarsanam. From him, Sudarsanam and his mother Pushpa got the property. Later, in the year 2007, Pushpa sold her share to Sudarsanam for a consideration of Rs.20 lakhs. Then, in the year 2008, the said Sudarsanam sold the property to his sister's husband Govindaraj for Rs.5,40,000/- The said Govindaraj has executed a power of attorney document to the Advocate Ramsekar in the year 2010.

5.Coming to know about the fabrication of documents and attempt to grab the land, K.K.Sridhar filed O.S.No.333/2010 and O.S.No.348/2010 before the Ambattur Court against Sudarsanam and others. These suits were decreed in favour of K.K.Sridhar vide, judgment dated 03/09/2013. The suits O.S.No.342/2010 and O.S.No.222/2011 filed by Govindaraj and Sudarsanam were dismissed.

6.Thereafter, enquiry was conducted by the Sub-Registrar and it was held that the settlement deed of the year 2007 and the sale deed of the year 2008 through which Sudarsanam and others claim title over the property were cancelled. Those documents were declared as forged documents. The patta issued in the name of Govindaraj was also cancelled after due enquiry.

7.While so, during the first week of August 2021, Sudarsanam, Karthick, Chitra and others joined together and trespassed into the disputed land with construction materials and occupying the land illegally. They threaten him with dire consequence, if the defacto complainant enters the land.

8.The petitioner herein is the wife of the said Sudarsanam and she is arrayed as second accused. According to her, she is nothing to do with the alleged crime. The suit between K.K.Sridhar the principal of the defacto complainant and her husband Sudarsanam in respect of the property in S.No.188/13 no doubt ended in favour of K.K.Sridhar. However, an appeal is preferred by Sudarsanam and the same is pending before Sub-Court, Poonamallee. Civil dispute in respect of the title over the disputed land is pending between the parties for more than 10 years. In fact, the property is in absolutely possession of her husband Sudarsanam.

9.From the complaint, the petition for anticipatory bail and counter filed by the Investigating Officer, it reveals that, the property in dispute originally belongs to one Murugappa Chettiar. According to the defacto complainant, Murgappa Chettiar, who had no issues, gave the property to his brother Krishnan and on the demise of Krishnan, it devolved on his wife Nagarathinammal. The said Nagarathinammal sold the property to Kittappa. The defacto complainant's principal K.K.Sridhar is the son of Kittappa.



10. Whereas, the petitioner who is the wife of Sudarsanam arrayed as second accused claims that Murugappa Chettiar bequeathed the property to his brother's son Srinivasan through a Will dated 15/06/1964. Srinivasan died intestate on 05/10/1978 leaving behind his son Sudarsanam, wife Pushpa and daughters. The property in dispute was allotted to Sudarsanam and Pushpa. On 31/08/2007, Pushpa settled her share in S.No.188/13 in favour of her son Sudarsanam. Based on the settlement deed, Sudarsanam (A-1) became the absolute owner of the property. In the year 2008, Sudarsanam executed a sale deed in favour of Govindaraj (A-3). Nagarathinammal, W/o Krishnan have no right in the property. Therefore, the alleged purchase of the property by Kittappa is without any title. No right flows to Kittappa or his son K.K.Sridhar or to his power agent, the defacto complainant.

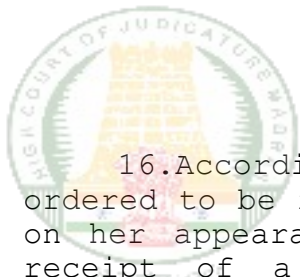
11. The case under investigation against this petitioner and others is in respect of fabrication of document, trespass and criminal intimidation. From the records collected during investigation, it indicates that the suit for permanent injunction filed by the Sudarsanam (A-1) and Govindaraj (A-2) was dismissed and the suit for permanent injunction by K.K.Sridhar and others against the accused persons was granted.

12. Thus, the sum and substance is that, there is a Court decree against the petitioner and others from interfering with the peaceful possession of the K.K.Sridhar of the suit property. While so, the delay in registering the complaint sent to the Joint Commissioner, West Zone and forwarded to the respondent police, thereafter, the First Information Report registered on 05/01/2022 cannot per se be taken as a reason for granting anticipatory bail.

13. The prima facie material so far proved through the competent civil Court that, neither the petitioner nor her husband have right in the suit property. That apart, they are restraint by an order of injunction from interfering with the peaceful possession of K.K.Shridar. Therefore, any violation of the injunction order is liable for action both under civil law and criminal law. In the instant case, apart from breach of injunction order, there is case of fabrication of documents to gain title over the property.

14. As a result, the Criminal Original Petition in CrI.O.P.No.5601 of 2022 is dismissed.

15. As far as the petitioner in CrI.O.P.No.5454 of 2022 is concerned, her role in the alleged crime does not appear to be significant. Any event her co-operation for investigation is sufficient and custodial interrogation is not necessary. Therefore, Anticipatory bail is granted to the petitioner on the following conditions.



16. Accordingly, in Crl.O.P.No.5454 of 2022, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on her appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Ambattur, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand Only), with two sureties each for a like sum to the satisfaction of the respondent police or 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the Investigation Officer 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

22/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



TO

1 THE JUDICIAL MAGISTRATE,
AMBATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
T-1, AMBATTUR POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. V.PERARASU Advocate on payment of necessary charges
SR.NO.4255

CRL OP.5454 & 5601/2022

Date :22/03/2022

JPA 23/03/2022