



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventh day of April Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.7909 of 2022

V.P.KRISHNASAMEE

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
BALUCHETTY CHATHIRAM POLICE STATION,
BALUCHETTY CHATHIRAM,
KANCHEEPURAM.

(*)CRIME NO.244/2019

For Petitioner : M/S. R.DHANASEKAR Advocate

For Respondent : M/S.S.SANTHOSH, Govt. Advocate (Crl. Side)

For Intervener : M/S.D.DAYALAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehend arrest for the alleged offence under Sections 406, 420 and 506(ii) of I.P.C., in Crime No.244 of 2019, seeks anticipatory bail.

2. The defacto complainant alleges that, she executed a mortgage deed for a sum of Rs.3,00,000/- in respect of her house to the petitioner herein on 20.12.2010. The petitioner submits that the petitioner had advanced loan to the defacto complainant and in pursuant to that, the defacto complainant executed a mortgage deed. The defacto complainant had not brought back the money, so the petitioner instituted a suit for recovery of money based on the mortgage deed. While the said suit in O.S.No.58 of 2018 is pending adjudication, the defacto complainant has filed frivolous complaint alleging as if the property has been transferred in the name of this petitioner fabricating the signatures obtained from her two sons.



3. The Learned Government Advocate (Crl.Side) for the respondent/state, based on the complaint of land grabbing, a case has been registered against this petitioner in Crime No. 244 of 2019 for the offence under Section 406, 420 & 506(ii) of I.P.C., and would fairly submit that, so far the defacto complainant has not produced any document pertaining to transfer of title.

4. Insofar as, the Learned Counsel for the defacto complainant/intervenor would submit that, he has produced copy of the alleged sale deed dated 19.10.2012 to the Investigating Officer. Reading of the plaint filed by the petitioner herein and the pre-suit notice issued by the petitioner herein which is dated 05.03.2017, it is clear that, the petitioner has instituted the suit in the year 2018 based on the simple mortgage created in his favour and nowhere, he has stated that, he has purchased the property from the sons of the defacto complainant in the year 2012 as alleged in the complaint. If that is so, then, somewhere in the pre-suit notice or in his plaint, the petitioner would have stated about the subsequent transaction after creation of the mortgage. The very fact that, in the year 2018, the petitioner has stated, he is a mortgagee and he is entitled for recovery of money based on the mortgage itself is an indication that, the allegation of subsequent transfer of title in his favour. Any document while act as promissory estoppel against this petitioner in the Civil suit. Therefore, this Court finds that, the matter of civil nature has given a criminal colour and hence, the petitioner is entitled for anticipatory bail.

5. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Kancheepuram, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties 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 respondent police daily at 10.30 a.m., until further orders.

(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 anticipatory 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/-

07/04/2022

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.

[*]Amended as per order of this court dated 29.04.2022 made in CrI.MP.NO.6202/2022 in CrI.O.P.No. 7909/2022

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
BALUCHETTY CHATHIRAM POLICE STATION,
BALUCHETTY CHATHIRAM,
KANCHEEPURAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SECTION OFFICER,
E.R.SECTION,
HIGH COURT, MADRAS.



+1 CC to M/S. R.DHANASEKAR
charges SR.NO. 5520

Advocate on payment of necessary

WEB COPY

CRL OP.7909/2022

Date :07/04/2022

RW 12/04/2022

RW 05/05/2022