



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION No.12345 of 2022

V.SIVAGNANAM

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUVALLUR.
CRIME NO.1 OF 2022.

[RESPONDENT]

For Petitioner : M/S.G.VIJAYAKUMAR Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 417 and 420 of IPC in Crime No.1 of 2022, seeks anticipatory bail.

2.The defacto complainant lodged a complaint stating that she had purchased a property in Sri Balaji Avenue, Plot No.36, 2100 Sq. Ft through Document No.1128 of 2007 dated 09.02.2007 from one Mr.L.Ganesan, S/o.Lakshmanan for Rs.1,50,000/-. Thereafter, she applied for Encumbrance Certificate and to her shock, she found that Document No.953/2000 dated 17.07.2000 in the name of Chandra has been executed sale deed for the same property. She had questioned the said Mr.L.Ganesan, her vendor, about the same, who informed that it was the petitioner from whom he had purchased the property. It was found that double documentation has been done for the same property. Hence, she lodged a complaint.



3.The contention of the petitioner is that petitioner owned an extent of 4 acres of land in Pattaraiperumputhur Village. The adjacent land owners of the petitioner's land had approached the petitioner for sale of the land along with their land after converting it into a layout. The learned counsel for the petitioner submitted that twenty years ago, the petitioner had formed a layout consisting of several plots in the name of Sri Balaji Avenue, since he was not conversant with the real estate activity and not much educated, he had permitted Mr.L.Ganesan to find purchasers for the plots. The learned counsel for the petitioner submitted that almost all the plots owned by the petitioner were sold during the year 1999 and 2000. The petitioner was under impression that all his plots were sold out. However, during the year 2006, one Mr.L.Ganesan approached the petitioner and claimed that some of the plots were not yet sold and it still remains in the name of the petitioner. Further the said Mr.L.Ganesan had claimed that he is having some prospective purchasers and also produced a copy of a letter dated 15.10.2001 issued by the Village Panchayat President.

4.The learned counsel for the petitioner submitted that the petitioner had various health ailments so that he could not verify what are the plots sold and what are unsold. The petitioner was forced to believe the said Mr.L.Ganesan and agreed to sell the unsold pots. The said Mr.L.Ganesan had made arrangements for sale of some plots and he himself has purchased three plots vide Sale Deed dated 06.09.2006 registered as Document No.2440 of 2006 on the file of the SRO, Thiruvallangadu.

5.The learned counsel for the petitioner submitted that the said Mr.L.Ganesan had in turn sold one plot to the defacto complainant vide Sale Deed dated 09.02.2007 registered as Document No.1128 of 2007 on the file of SRO, Thiruvallangadu. Now after expiry of about 15 years, the defacto complainant had suddenly verified the encumbrance certificate and had made a false complaint as if the petitioner had fraudulently sold the plot to her.

6.The learned counsel for the petitioner submitted that the petitioner is an aged person and he is severely affected with health ailments and he has paralysis, stroke with restricted movement. On receipt of the notice from the respondent police under Section 41(A) of Cr.P.C., dated 11.01.2022, he had sent the reply through his son-in-law Mr.Dhanasekaran and also through registered post on 04.03.2022, wherein, he had disclosed that, in the event of double documentation, the petitioner is willing to convey the alternative plot in the same layout. For the reasons best known, the respondent police are not taking any initiative and the defacto complainant is using the FIR and trying to extract money from the petitioner.



7.The learned Government Advocate (Criminal Side) submitted that the petitioner himself admitted about the double documentation, since the petitioner is now willing to execute another plot in the same layout for the wrong committed by him and also to take steps to convey the same to the defacto complainant and also make arrangements for execution of sale deed proportionate to the disputed plot. He further submitted that the respondent police had only issued 41(a) Notice, after finding that it is a civil dispute, the arrest of the petitioner is not required.

8.Considering the submission and perusal of the materials and that the petitioner is willing to execute alternate plot in the same layout, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate-I, Thiruvallur, on condition that the petitioner shall execute a separate 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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] Finding that the petitioner is suffering from serious health conditions, instead of the petitioner, alternatively, his son-in-law Dhanasekaran, who is conversant in the above transaction, shall appear before the respondent police, daily at 10.30 a.m. for a period of two weeks, and the petitioner shall appear only if absolutely necessary and give the required clarifications, and thereafter, 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-

26/05/2022

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,
NO.I, THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUVALLUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.G.VIJAYAKUMAR Advocate on payment of necessary charges SR.NO. 8042

CRL OP.12345/2022

Date :26/05/2022

RW-01/06/2022