



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty First day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.13832 of 2022

S.KAMESH RAJ

[PETITIONER / ACCUSED]

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
B7 POLICE STATION,
VELLAVEDU.
CRIME NO.175 OF 2022

[RESPONDENT]

For Petitioner : M/S.N.IYYAKANNU Advocate

For Respondent : M/S.A.DAMODARAN, Additional Public Prosecutor

For Intervener : M/S.R.GANESH KUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420 and 506(i) of IPC in Crime No.175 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the property comprised in Survey Nos.133/3A1 and 133/3A4 measuring an extent of 1.12 cents situated at Sembarambakkam Village, Poonamalle Taluk, Thiruvallur District, was initially purchased by the petitioner's father viz., P.Sivamanai along with one Ponnammal from Azhwar Pillai through registered sale deed dated 18.11.1964 registered as Doc.No.2909/1964. Subsequent to the said purchase, Ponnammal executed a settlement deed dated 17.11.1970 registered as Doc.No.2911 of 1970 in favour of R.Sivamani wherein Ponnammal had released her share of property which was jointly purchased by her and R.Sivamani by virtue of sale deed



dated 18.11.1964 registered as Doc.No.2909/1964. It is further alleged that the petitioner had acquired the said property by virtue of settlement deed dated 25.03.2005 registered as Doc.No.708/2005 executed by one R.Sivamani in favour the petitioner herein. Ever since, the date of settlement deed, the petitioner was in absolute possession and enjoyment of the above said property measuring to an extent of 1.12 cents comprised in Survey Nos.133/3A1(1.01cents) and 133/3A4 (0.11cents) till the same was conveyed in favour of Soosai Raj who is the defacto complainant herein. It is pertinent to mention that even after the execution of the above mentioned settlement deed in favour of this petitioner, the property was fully managed by the petitioner's father till a part of land which was transferred to the defacto complainant measuring an extent of land in S.No.133/3A1 was sub divided into three parts and re-numbered with new Survey Nos.133/3A1A, 133/3A1B and 133/3A1C. It is further alleged that in the year 2006, the National Highway Authority of India had acquired the property for the purpose of extending the Highways Road for which the authority had duly compensated the petitioner herein. It is further alleged that the petitioner had sold the land by suppressing the fact that the land was acquired by the National Highways Authority of India. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned counsel for the Intervenor/ defacto complainant submitted that in the property which was purchased by the defacto complainant, a portion of the property was acquired by the National Highways Authority and the petitioner by suppressing the said fact, sold out the entire extent of the property to the defacto complainant. He further submits that on perusal of the order passed by the Revenue Divisional Officer, Thiruvallur dated 06.04.2022, it is seen that a portion measuring 0.01.00 ares (1067) was already acquired by the National Highways Authorities. The defacto complainant was granted patta only for the remaining land.

5. The learned counsel for the petitioner submitted that the petitioner has sold out the land in the year 2012 admeasuring 7848 sq.ft in-respect of the land comprised in S.No.133/3A1A2 whereas the land was acquired by the National Highways Authority of India comprised in S.No.133/3A1C. No land was acquired in the land comprised in S.N0.133/3A1and A2. The land is very much available with the defacto complainant. Therefore, according to the petitioner, the entire land was sold out in favour of the defacto complainant and he is in peaceful possession and enjoyment of the same. Whereas the Revenue Authorities denied patta for the entire extent of 1687 sq.ft land, which was already acquired by the National Highways Authority of India.



6. The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner had sold the land by suppressing the fact that the land was acquired by the National Highways Authority of India. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

7. Taking into consideration the facts of the case and considering the submissions of the learned Counsel, this Court is of the view that the custodial interrogation of the petitioner is not required. Hence, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;.

8. 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 Court-II, Poonamalle on condition that the petitioner shall execute a bonds 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] the petitioner shall report before the respondent police at 10.30 a.m., for a period of four weeks and thereafter as and when required for an interrogation.

[c] the petitioner is also directed to co-operate with the Revenue Officials while surveying the land wherein the land comprised in 133/3A1C or 133/3A1A land acquired by the National Authority of India;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].



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

WEB COPY

-sd/-

21/06/2022

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.II, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
B7 POLICE STATION,
VELLAVEDU, THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.V.P.SHEEBA Advocate on payment of necessary charges
SR.NO. 9622

+2 CC to M/S.R.GANESH KUMAR Advocate on payment of necessary
charges SR.NO. 9830

CRL OP.13832/2022

Date :21/06/2022

RW-30/06/2022