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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.25811 of 2021

M.Salahuddin

...Petitioner

Versus

State by Inspector of Police
The District Crime Branch,
Anti Land Grabbing Special Cell,
Nagapattinam District.
(Crime No.13 of 2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of his arrest in Crime No.13 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.M.K.Subramanian

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 420, 465, 468, 471, 120B IPC in Crime No.13 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the brother of the petitioner. Further, the petitioner had forged the signature of the defacto complainant and fabricated the Hibba document and executed a sale deed in favour of A2 and after receiving the sale consideration, the petitioner was dragging the registration and thereby, on the basis of the said sale deed, A2 had filed a suit in O.S.No.140 of 2020 on the file of the District Munsif Court, Sirkazhi, against the petitioner and the matter was settled in the Lok Adalat and an award was passed. Subsequently, A2 registered the Lok Adalath award in the Sub-Registrar Office, Sirkazhi, vide Document No.3056 of 2020 dated 01.12.2020 based on which, A2 entered into a sale agreement with one Pandiayan/A3 on 16.12.2020 and thereafter, cancelled the said agreement on 18.02.2021. Thereafter,



A2 executed a settlement deed infavour of his wife/A4 and registered the same in document No.940 of 2021. In turn, the petitioner along with other accused fabricated the Gift Deed in favour of A4 to grab the property from the defacto complainant. Hence, the complaint.

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3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the defacto complainant filed a suit against the petitioner in O.S.No.230 of 2020 in which, the petitioner filed a written submission of the facts stated that the property in S.No.289/1 measuring about 1 acre 51 cents absolutely belonged to the petitioner by virtue of Hiba given on 15.02.2018 and further stated that the property was sold to A2. After receipt of sale consideration. He further submitted that co-accused had already been granted bail by this Court in Crl.O.P.No.24946 of 2021 dated 20.12.2021. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the petitioner along with other accused persons have intention to grab the property belonging to the defacto complainant. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. On perusal of the records that the defacto complainant has filed a suit in O.S.No.230 of 2020 before the Principal District Munsif, Sirkazhi against this petitioner seeking for the relief of Mandatory injunction and other reliefs, wherein, the petitioner appeared before the respondent police and submitted the written statements, which reveals that the Hibba document was executed, which is lying civil in nature.

6. Considering the facts and circumstances of the case and also the fact that apart from this petitioner has also appeared before the respondent police and produced the bank statement with regard to the money transaction and the civil suit is pending and also considering the age of the petitioner is aged about 68 years, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the **learned Judicial Magistrate No.II, Nagapattinam**, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:



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(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 on every Monday and Wednesday 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 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/-

05/01/2022

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

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

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ANTI LAND GRABBING SPECIAL CELL,
NAGAPATTINAM DISTRICT.

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+1 CC to M/S.M.K.SUBRAMANIAN Advocate on payment of necessary
charges SR.NO.212

CRL OP.25811/2021

Date :05/01/2022

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