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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 16/02/2022

PRONOUNCED ON: 22/02/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . No.190 of 2022

1. K.Malarvizhi	... Petitioner/Accused No.1
2. K.Indhuja	... Petitioner/Accused No.2
3. K.Deepak	... Petitioner/Accused No.3

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Sivagangai District.
(Crime No. 1/2022)

... Respondent/Complainant

(Amended as Per Order of this Hon'ble
Court dated 16.02.2022 in Crl.MP (MD)
No.2164/2022 in Crl.OP (MD) No.190/2022
by KMSJ)

S.A.Ameen Shah

... Petitioner/Inervener/
Defacto Complainant
(in Crl.MP (MD) No.596/2022)

For Petitioners : M/s.R.J.Karthik, Advocate for
M/s. Vidhyasagar S, Advocate.

For Respondent : M/s.M. Muthumanikkam,
Government Advocate (Crl.Side)

For Intervenor : M/s.T.Selvan, Advocate

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

PRAYER :-

<https://hcservices.ecourts.gov.in/hcservices/>

For Anticipatory Bail in Crime No.1 of 2022 on the file of
the respondent Police.



ORDER : The Court made the following order :-

The petitioners/accused Nos.1 to 3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 468, 471, 420 and 120(B) I.P.C., in Cr.No.1 of 2022, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had entered into a sale agreement on 15.09.2016 with regard to 2.35 Acres of land in Survey No.196/2, situated at Thiruvallur Village, Ilayankudi, Sivagangai District by receiving a sale consideration of Rs.62,50,000/- and that the petitioners, without executing the sale deed in favour of the defacto complainant, had entered into another registered sale agreement with the third parties and that the petitioners had colluded together and acted with an intention to cheat the defacto complainant. Hence, the present complaint.

3. The case of the petitioners is that one Karunanidhi, husband of the first petitioner and the father of the petitioners 2 and 3 had entered into a registered sale agreement with the defacto complainant on 27.09.2012, that subsequently Karunanidhi died on 12.11.2014, that the petitioners have thereafter cancelled the sale agreement vide document dated 06.01.2016 and executed the general power of attorney dated 06.01.2016 to the defacto complainant and that since the defacto complainant tried to alienate the property improperly, the general power of attorney was cancelled vide document dated 10.02.2016.

4. The petitioners' further case is that at the time of executing the general power of attorney, the defacto complainant had maliciously obtained the signature from the petitioners in a blank document stating that it was for the purpose of getting DTCP approval and that thereafter, the defacto complainant had filled up the blank documents for his convenience and creating the forged document to acquire the property illegally.

5. The learned Counsel for the petitioners would submit that the petitioners have not entered into any sale agreement with the defacto complainant and they have not received any amount from him. He would further submit that the defacto complainant had filed a suit in O.S.No.27 of 2016, on the file of the District cum Judicial Magistrate, Ilayankudi for permanent injunction against the petitioners with regard to the very same property, by alleging the same facts, now raised in the complaint and after trial, the suit was ordered to be dismissed on 12.11.2021 and that the defacto complainant, aggrieved by the judgment of the civil Court, had lodged the above false complaint within one week since the date of judgment.



6. The learned Counsel for the intervenor would submit that the petitioners had sold the lands to the defacto complainant and the sale deed was prepared on 15.09.2016 in the stamp papers and the petitioners have subscribed their signatures, that the petitioners had specifically admitted in the sale deed that the complainant has already paid the sale consideration of Rs.62,50,000/- in a piecemeal manner to Karunanidhi and to the petitioners, that the said sale deed when presented for registration, was returned by the Sub-Registrar on 16.09.2016, without assigning any pending number, that the petitioners instead of executing the sale deed and getting it registered, have conspired together to enter into another sale agreement with Sigamani and Rajapandi in respect of the same property and that therefore, the complainant was forced to lodge the present complaint.

7. The learned Counsel for the intervenor would further submit that the defacto complainant has also filed a writ petition in W.P.No.22227 of 2021 seeking directions to complete the investigation and that the said petition is pending on the file of this Court.

8. The learned Government Advocate (Crl.Side) appearing for the State would submit that the investigation is pending.

9. According to the defacto complainant, the petitioners have executed a sale deed after receiving the sale consideration of Rs.62,50,000/- and thereafter, they have refused to get the document registered. But on the other hand, it is the specific case of the petitioners that they have already cancelled the sale agreement entered into between the first petitioner's husband Karunanidhi and the defacto complainant and the general power of attorney which was executed at the time of cancellation of sale agreement was also subsequently cancelled and that they have not entered into any sale agreement nor executed any sale deed as alleged by the defacto complainant.

10. On considering the rival contentions put forth by the petitioner as well as the defacto complainant, it is clearly evident that there existed some civil disputes between them. Considering the above facts and circumstances and also the fact that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions.

11. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District Munsif cum Judicial Magistrate, Ilayankudi, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or



to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners 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 petitioners 1 and 2 shall report before the respondent police as and when required for interrogation and the third petitioner shall report before the respondent police daily at 10.30a.m., for period of one month and thereafter as and when required for interrogation.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
22/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



1. THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, ILAYANKUDI.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

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

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S. VIDHYASAGAR S Advocate SR.No.1452

ORDER
IN
CRL OP (MD) No.190 of 2022
Date :22/02/2022

SP/SBN/SAR IV/25/02/2022/5P/6C