



WEB COPY

Crl.OP(MD)No.2138/2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 10/03/2022

Pronounced on :24/03/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . Nos.2138 and 2454 of 2022

R. Kannan, ... Petitioner/Accused
(in Crl.OP (MD)No.2138/2022)

Dr.B.Venkateswaralu ...Petitioner/Accused
(in Crl.OP (MD)No.2454/2022)

Vs.

The State Rep by,
The Inspector of Police,
District Crime Branch,
Dindigul.
(Ref-Crime No. 41/2021). ... Respondent/Complainant
(in both petitions)

S.Kalavathi ...Petitioner/Proposed Respondent/
Defacto Complainant
in Crl MP (MD)Nos. 1975 & 1747 of 2022

For Petitioner : MR.D.Shanmugaraja Sethupathi, Advocate
in Crl.OP (MD)No.2138/2022

For Petitioner : Mr.M.E.Ilango, Advocate
in Crl.OP (MD)No.2454/2022

For Respondent : Mr.M.Muthu Manikkam,
Government Advocate (Crl.Side)
in both petitions

For Intervenors : Mr.RM.Makesh Kumaravel, Advocate
in Crl MP (MD)Nos. 1975 & 1747 of 2022

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

PRAYER :-

Petitions for Anticipatory Bail in Crime No. 41 / 2021 on the
<https://hcservices.ecourts.gov.in/hcservices/> by the Inspector of Police, District Crime Branch, Dindigul.



COMMON ORDER : The Court made the following common order :-

The petitioners/Accused Nos.1 and 3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 468, 471 and 506(i)IPC, in Crime No.41 of 2021, seeks anticipatory bail.

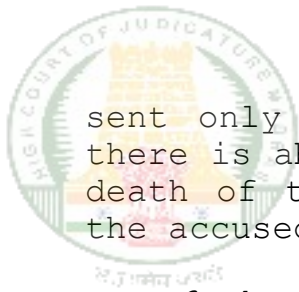
2.The case of the prosecution is that the first accused is the brother of the defacto complainant and their father Mr.M.S.Raju, had purchased the land to the extent of 1 1/2 acres and constructed a building in the said property, that the said Raju was admitted in AR Hospital, Madurai for treatment in the month of February 2012 and he died on 12.02.2012 in the said Hospital, that the defacto complainant has already filed a suit in O.S.No.377 of 2012 on the file of the Principal Sub Court, Dindigul, seeking partition of the property, that while the defacto complainant obtained copies of the documents from Dindigul Municipality, she came to know that in the death certificate of her father, it has been stated that her father died in the house of the first accused at Adiyanoothu Village, that the second accused Dr.Ashok Kumar has given a false certificate, as if the deceased was taking treatment in his Hospital and that when the said M.S.Raju, died in the A.R.Hospital at Madurai, the death certificate was issued by the Dindigul Municipality, as if he died at Adiyanoothu Village.

3.It is the further case of the prosecution that the first accused has claimed title over the property on the basis of the Will said to have been executed by the deceased M.S.Raju and that the first accused in connivance with the accused 2 and 3 has created a false death certificate and thereby committed the offences.

4.The petitioners' case is that the property in Survey No.367/5B to the extent of 1.20 acre was jointly purchased by the said M.S.Raju and his brother Govindaraju, that 60 cents of land was allotted to the said M.S.Raju in the partition, that out of 60 cents, portion of the land was already sold to various persons and after ear marking pathway, the first accused and his father constructed dwelling house and shops in the above property and that the said M.S.Raju has executed a Will dated 20.12.2011 bequeathing the above property and building constructed thereon.

5.The petitioners' further case is that the said M.S.Raju was suffering from heart ailments and on 11.02.2012 Dr.Ashokkumar, who is the family Doctor of the first accused had given treatment to the said M.S.Raju at his house and subsequently, he was taken to the A.R.Hospital, Madurai for further treatment, that while he was taking treatment in the A.R.Hospital, he died on 12.02.2012 itself, that the deceased was subsequently, taken to the residence of the first accused and thereafter, he was cremated in electric cremation

<https://hccsecrecourts.gov.in/actsecre> at Govindapuram, Dindigul, that the death report was



sent only at the instance of the defacto complainant's son, that there is absolutely no false or misleading information given in the death of the said M.S.Raju and that neither the first accused nor the accused 2 and 3 has committed any offence as alleged in the FIR.

6.The learned counsel for the petitioners would submit that the first accused is working as a Training Officer/Vice Principal in Government ITI, Sivagangai, that the second accused is a Veterinary Doctor working in the Animal Husbandary Department of the State Government, that the defacto complainant and the first accused are brothers and are having dispute with their father's property and the civil suit in O.S.No.377 of 2012 is pending and that they are innocents and that they have been falsely implicated in the above case.

7.Admittedly, the first accused and the defacto complainant are brothers and that the first accused had married the sister of the second accused.

8.Admittedly, the property in dispute was owned by the father of the first accused and defacto complainant, M.S.Raju and that after the death of the said M.S.Raju, the defacto complainant has filed the suit in O.S.No.377 of 2012 on the file of the Principal Sub Court, Dindigul and that the same is pending.

9.The case of the intervenors/defacto complainant is that the said M.S.Raju had sustained head injuries in August 2011 and underwent surgery and took treatment at coma stage, that during February 2012, his health condition was deteriorated and he was admitted at A.R.Hospital at Madurai, where he died on 12.02.2012, that thereafter, the first accused has sent a caveat notice to the defacto complainant from Dindigul District Court in respect her father's property, that the said M.S.Raju had died in the year 2012 and FIR came to be registered after the lapse of 9 years i.e., 2021 and as such there is a huge delay in registration of the FIR, that there is absolutely no overtact alleged against the second accused as well as the first accused and that the second accused has been falsely implicated by the defacto complainant, who is none other than his aunty of the first accused only to wreck vengeance against the first accused.

10.As rightly pointed out by the learned counsel for the intervenor, there are two death certificates allegedly regarding the death of the said M.S.Raju, wherein one was issued by the Corporation of Madurai as if, he died in A.R.Hospital, Madurai and the other one issued by the Village Administrative Officer of the concerned Village, as if the deceased had died at his residence in Adiyanoothu Village, Bopalpatti, Vembar Patti Village.



11.No doubt, the intervenor has produced the legal heirs certificate, wherein the names of the petitioner/first accused and the defacto complainant find place therein.

12.It is also not in dispute that the defacto complainant has filed a petition in Crl.OP(MD)No.1526 of 2022 under Section 482 Cr.P.C., seeking orders to withdraw the complaint pending before the third respondent in Crime No.41 of 2021 and transfer it to the Deputy Superintendent of Police, CBCID, Dindigul District for further and speedy investigation and that this Court vide order dated 28.01.2022, has observed and further directed the respondent Police to file a positive final report shortly thereafter and in any event, the entire exercise shall be concluded within a period of three months from the date of receipt of copy of that order and that the jurisdictional Deputy Superintendent of Police was directed to monitor the investigation.

13.As already pointed out, it is the specific case of the intervenor that the first accused while their father was unconscious, the first accused had created a forged unregistered Will dated 20.03.2021 as if created by the petitioner's father. Whether the first accused had created a forged unregistered Will as if the same was executed by their father M.S.Raju is a matter for investigation.

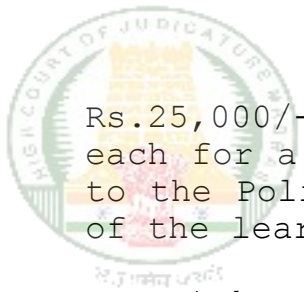
14.As rightly contended by the learned counsel for the petitioner, it is for the competent Civil Court to decide as to whether the Will is proved in accordance with law. But whether the signature of the deceased were forged or not can be ascertained by sending the disputed documents and along with the admitted documents to forensic experts.

15.In the case on hand, as already pointed out, the main allegation is that the petitioners/accused have obtained a death certificate, as if the death was at the Dindigul residence.

16. Considering the nature of the dispute, as rightly contended by the learned counsel for the petitioners, the custodial interrogation is not necessary.

17.Considering the facts and circumstances of the case and also considering the charges levelled against the petitioners and that the petitioners are not having any bad antecedents and also the fact that the custodial interrogation of the petitioners is not necessary, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

18. 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 Judicial Magistrate Court No.II, Dindigul, on the 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 conditions 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 shall report before the respondent police daily at 10.30 am for a 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 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/-
24/03/2022

/ TRUE COPY /

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

DAS

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.

TO

1 THE JUDICIAL MAGISTRATE NO.II
DINDIGUL



2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
DINDUGAL DISTRICT.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
DINDIGUL.

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

+2 CC to M/s.R.M.MAKESH KUMARAVEL, Advocate (SR-2477& 2478[I])

+1 CC to M/s.M.E.ILANGO, Advocate (SR-2539(I))

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-14436(F))

ORDER
IN
CRL OP (MD) Nos.2138 &
2454 of 2022
Date :24/03/2022

PKP/SBN/SAR-4/29.03.2022/6P/9C