



WEB COPY

No.23/1, Erode Main Road,

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 03/03/2022

PRONOUNCED ON : 08/03/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.2313 and 4196 of 2022

CRL OP(MD) . No.2313 of 2022:

K.C.S.Vivekanandhan

... Petitioner/1st Accused

Vs

State Rep.by

The Inspector of Police,

District Crime Branch,,

Karur District.

Crime No.6/2022)

... Respondent/Complainant

(Amended as Per Order of this

Court Dated 23.02.2022 in

Cr1 OP(MD)No.2313/2022)

For Petitioner : Mr.G.Karuppasamy Pandian, Advocate

for M/S.J.Senthil Kumaraiah, Advocate.

For Respondent : Mr.M.Muthumanikkam,

Government Advocate (Cr1.Side)

For Intervenor : Mr.M.Suresh, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.6/2022 on the file of the respondent police.

CRL OP(MD) . No.4196 of 2022:

Lalitha

... Petitioner/2nd Accused

Vs

State Rep.by

The Sub Inspector of Police,

District Crime Branch,

Karur District

(Crime No.6 of 2022).

... Respondent/Complainant

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



For Petitioner : M/s.Gokulraj.S.,
Advocate.

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

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

PRAYER :-

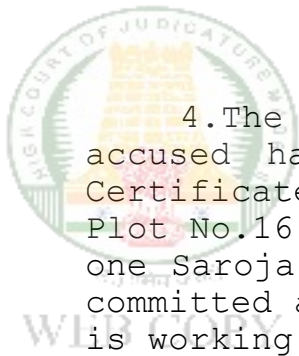
For Anticipatory Bail in Crime No.6 of 2022 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioner in Crl.O.P.(MD)No.2313 of 2022/first accused who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 466, 467, 468, 471, 147, 294(b) and 506(ii) I.P.C., in Cr.No.6 of 2022, seeks anticipatory bail.

2.The petitioner in Crl.O.P.(MD)No.4196 of 2022/second accused who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 466, 467, 468, 471, 147, 294(b) and 506(ii) I.P.C., in Cr.No.6 of 2022, seeks anticipatory bail.

3.The case of the prosecution is that in an unapproved lay out in the name of Subbu Garden was formed in S.F.No.517/B1, 517/B2, 517/D1 and 517/D3 along with other survey numbers, that there were 16 plots in the said lay out, that the State Government has issued Government Orders in the year 2017 for regularisation of the unapproved lay outs imposing a specific condition that the approval to the plots should be given only if those plots were sold before 20.10.2016, that after selling of some plots, 5 plots had remained unsold and as such, they were not eligible to get No Objection Certificate, as those plots were not sold before 20.10.2016, that the accused had approached the defacto complainant who was then working as Junior Assistant in Punjai Pugalur Town Panchayat to issue No Objection Certificate for unsold plots, that the defacto complainant refused to accept the request and due to that vengeance, they have transferred him to Nangavaram Town Panchayat, that subsequently, the defacto complainant came to know that the No Objection Certificates were issued to the said plots and applied for sale deeds and obtained the same through online, that on verification of records, he came to know that they have attached the fabricated proceedings as if No Objection Certificate was issued by Town Panchayat to those plots and that the defacto complainant's short sign and signature were forged.



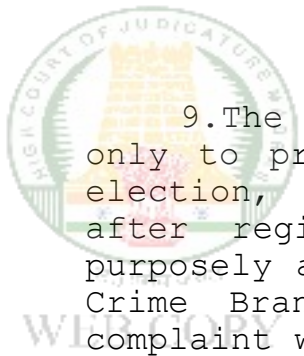
4.The prosecution's further case is that thereafter the three accused had sold 5 plots based on the fabricated No Objection Certificate, that plot No.15 was sold to the second accused Lalitha, Plot No.16 was sold to the first accused, that plot No.8 was sold to one Saroja - mother-in-law of the first accused, and that they have committed all these offences with the held of the fourth accused who is working as a Junior Assistant in the Town Panchayat.

5.The petitioners' case is that the first accused is the husband of the second accused, that the first accused is an active cadre of AIADMK and he was functioning as a Secretary of Pugalur Municipality, that since the first accused proposed to contest for the post of Councillor, in order to prevent the first accused from contesting the local body elections, at the instigation of local political big power, the defacto complainant gave a false complaint, that the petitioners are innocents and they have not committed any offence as alleged by the prosecution.

6.At the outset, it is pertinent to note that the Junior Assistant of Pualur Municipality has filed an intervening petition personally, engaging a Counsel on his own choice and this Court is at loss to understand as to how the panchayat official, who has preferred the complaint officially, has chosen to file intervening petition opposing the prayer for anticipatory bail. When this Court has raised the *locus standi* of the intervenor, in the subsequent hearings, there was no representation for the intervenor.

7.It is not in dispute that originally on the basis of the complaint lodged by the said intervenor, F.I.R. came to be registered in Cr.No.69 2022, on 31.01.2022 against 4 persons including the petitioners for the alleged offences under Sectins 147, 294(b) and 506(i) I.P.C., and that after examining some of the witnesses, the same police has altered the case to Sections 420, 465, 466, 467, 468, 471, 147, 294(b) and 506(ii) I.P.C and then transferred the case to District Crime Branch, Karur District and that thereafter, the District Crime Branch has registered a case in Cr.No.6 of 2022 on 03.02.2022 for the very same offences.

8.The learned Government Advocate (Crl.Side) appearing for the State would submit that the fourth accused who was the then Junior Assistant has given a confession statement specifically alleging that since the first accused had arranged for his transfer after getting Rs.3,00,000/-, had threatened him to give No Objection Certificate for selling the remaining plots available in Subbu garden, that the said fourth accused along with Junior Assistant - Vadevel went to the office and by using the old No Objection Certificate and also the signature of the then Executive Officer Karuppiyah, had created fresh No objection Certificate by forging his signature and that on that basis they have executed the sale deeds in favour of the first accused and his relatives.



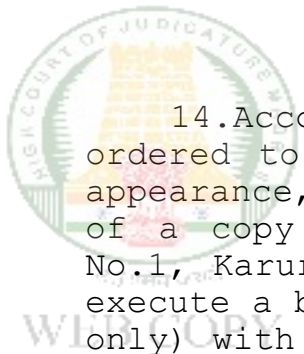
9.The learned Counsel for the petitioners would submit that only to prevent the first accused from contesting the local body election, the present case has been registered and that is why, after registering the F.I.R., for simple offences, they have purposely altered the case and transferred the same to the District Crime Branch, that during the earlier election also, a false complaint was made against the first accused and later it came to be closed as a mistake of fact.

10.when the above matter was taken up on 03.02.2022, considering the submission made by the learned Counsel for the petitioners that the first accused was going to file nomination to contest in the local body election in the Pugalur Municipal Corporation, this Court has granted interim protection and thereafter, the interim order was extended.

11.As rightly contended by the learned Government Advocate (Crl.Side), even assuming that No Objection Certificates were created only by the staffs of the Pugalur Municipality, by that fabrication, the first accused and his family members alone were benefitted. He would further submit that in the Subbu garden, unapproved lay out, 5 plots were not sold and for giving benefit of Government Orders issued in the year 2017, the plots should have been sold before 20.10.2016 and that therefore, to get the remaining plots, only at the instance or the threatening of the first accused, the No Objection Certificates were fabricated by forging the signature of the then Executive Officer and only on that basis, the sale deeds were taken in favour of the first accused and his family members.

12.Considering the above facts and circumstances and considering the nature and seriousness of the offence and also the way in which No Objection Certificates were fabricated and the signature of the then Executive Officer were fabricated, this Court is not inclined to grant anticipatory bail to the petitioner/first accused in Crl.O.P.(MD)No.2313 of 2022.

13.Admittedly the petitioner in Crl.O.P.(MD)No.4196 of 2022 / second accused is the wife of the first accused and according to the prosecution, the first accused had taken a sale deed in her favour also. Admittedly, the allegations levelled against the first accused were not made against the second accused. Considering the above facts and circumstances and the nature of the charges levelled against the second accused and also the fact that she is not having any bad antecedents as stated by the learned Government Advocate (Crl.Side), this Court is inclined to grant anticipatory bail to the petitioner in Crl.O.P.(MD)No.4196 of 2022/second accused with certain conditions.



14. Accordingly, the petitioner in Crl.O.P.(MD)No.4196 of 2022 is ordered to be released on bail in the event of her arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Karur, Karur District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) 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 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 daily at 10.30a.m., for period of 30 days 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 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.

15. In the result, the Criminal Original Petition in Crl.O.P. (MD)No.2313 of 2022 is dismissed and the Criminal Original Petition in Crl.O.P.(MD)No.4196 of 2022 is ordered.

sd/-

08/03/2022

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

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.I,
KARUR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR.

3 THE INSPECTOR OF POLICE
PASUPATHI PALAYAM POLICE STATION,
KARUR DISTRICT.

4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
KARUR DISTRICT.

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

+1 CC to M/s.J.SENTHIL KUMARAI AH, Advocate (SR-1858)

+2 CC to M/s.S.GOKULRAJ, Advocate (SR-1702, SR-1834)

ORDER IN
CRL OP(MD). Nos.2313 and 4196 of 2022
Date :08/03/2022

RS/SBN/SAR.2 (11.03.2022) 6P-9C