



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

RESERVED ON : 17/02/2022

PRONOUNCED ON: 23/02/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.3211 of 2022 and 18846 of 2021

1.B.Lakshmibalan ... Petitioner/Accused No.2
in Crl.O.P.(MD)No.3211 of 2022

2.B.Balasubramanian ... Petitioner/Accused No.1
in Crl.O.P.(MD)No.18846 of 2021

Vs

State represented by
The Inspector of Police,
District Crime Branch Police Station,
Pudukottai District.
In Crime No.11 of 2021

... Respondent/Complainant
in both petitions

Karthikeyayini ... Intervene Petitioner/
Proposed Respondent No.3
in Crl MP(MD) No.11378 of 2021

In both petitions:

For Petitioner : Mr.S.M.Mohan Gandhi, Advocate.
For Respondent : Mr.R.Sivakumar
Government Advocate (Crl. side)
For Intervenor : Mr.S.Krishnan, Advocate.

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.11 of 2021 on the file of the
Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
465, 468 and 471 of IPC, in Crime No.11 of 2021, seek anticipatory
bail.

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2.The case of the prosecution is that one Thiru.K.Sekaran, Sub Registrar, Manalmelkudi, Pudukottai District lodged a complaint alleging that the disputed property stands in the name of joint pattadhars, that the first accused executed a settlement deed in favour of the second accused, that at the time of registration of a settlement deed, the first accused has produced fake patta and other fake records, that one Karthikeyayini gave a complaint to the District Registrar to cancel the settlement deed and the District Registrar conducted an enquiry and passed an order directing the Sub-Registrar, Manalmelkudi to take necessary action and on that basis, FIR came to be registered.

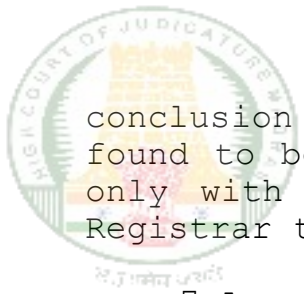
3.The case of the petitioners is that the lands in S.Nos.337/14 and 337/15 an extent of 0.09.5 acres at Manalmelkudi, Pudukkottai District was originally owned by the first accused's forefather Ramaiya Mudaliyar, that he has three sons and one daughter, that by oral partition, his grandfather-Balusamy got the lands and UDR patta was issued in favour of his father, that the first accused's father's brother, Munusamy's, daughter, Karthikeyayini by influencing the officials added her name in the patta without following due process of law, that the first accused has then filed an appeal before the Revenue Divisional Officer for deleting her name, that the said Karthikeyayini had used the officials to make allegations against the accused instead of challenging the appeal pending before the revenue authorities and that the petitioners have not made any forged documents and only produced the documents issued by the concerned authorities.

4.The learned counsel for the petitioners would submit that the second accused is an engineering graduate, got a job in Singapore and he is staying there for the past ten years, that the second accused has not participated in execution and registration of the settlement deed and he is in no way connected with the alleged commission of offences. The learned counsel for the petitioners would further submit that subsequently, the Revenue Divisional Officer has allowed the appeal vide order dated 01.02.2022 and came to the conclusion that there was no fault/wrong committed by the second accused and his father, that the said Karthikeyayini alone had committed all the illegal activities by including her name in the patta, that the patta issued in favour of Karthikeyayini was cancelled and that the respondent police without considering the same, has registered the case.

5.The learned Government Advocate (Crl. side) would submit that petitioners are not having any fake patta and that the said Karthikeyayini has committed all illegal activities by including her name in the patta.

6.It is evident from the proceedings of the District Registrar, Pudukkottai, that after enquiry, he came to the conclusion that the first accused had committed the offence under Section 489A of the Indian Penal Code, 1860 and he was sentenced to imprisonment for one year on 11.06.2021 that after enquiry, he came to the

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conclusion that since the patta relied by the first accused was found to be fake and since the document in question was registered only with the help of the said patta, he has directed the Sub-Registrar to initiate criminal proceedings against them.

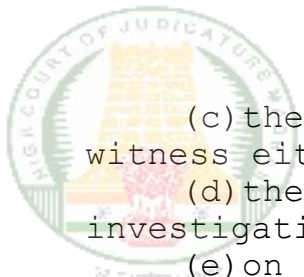
7.As rightly pointed out by the learned counsel for the petitioners, the Revenue Divisional Officer after conducting enquiry has passed an order, dated 01.02.2022, relying on the report of the Tahsildar, Manalmelkudi and also getting records from the District Collectorate, cancelled the order for adding the said Karthikeyayini as the joint pattadhar in patta No.748. It is evident from the said order, that the then Tahsildar, Manalmelkudi has sent a report stating that the patta allegedly produced by the first accused was not issued from their office and it is only a fake patta, but the present Tahsildar, Manalmelkudi has submitted a report that they are not having Manalmelkudi Village Natham records. The Revenue Divisional Officer has further observed that the first accused was issued patta on 03.09.2014 from the Office of the Tahsildar, Manalmelkudi and in the revenue records, the name of the first accused alone was found. As already pointed out, the District Registrar only on the basis of the report of the then Tahsildar, Manalmelkudi that the patta produced by the first accused was not issued from the office, has directed the Sub-Registrar to initiate the proceedings. It is pertinent to note that the Revenue Divisional Officer has cancelled the joint patta adding the said Karthikeyayini as pattadhar.

8.Considering the above facts and circumstances and also taking note of the order passed by the Revenue Divisional Officer, dated 01.02.2022 and also the fact that the petitioners are not having any bad antecedents as stated by the learned Government Advocate(Crl. side), this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the petitioners are ordered to be released on bail in the event of 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 No.II, Pudukottai, 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 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 learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of thirty (30) days and thereafter, as and when required for interrogation.



(c) the petitioners shall not tamper with the 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 / petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

23/02/2022

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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.II,
PUDUKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
PUDUKOTTAI DISTRICT.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
PUDUKOTTAI DISTRICT.

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

+2 CC to M/s.S.M.MOHAN GANDHI, Advocate (SR-1440, 1441[I] dated 24/02/2022)

ORDER

IN

CRL OP(MD) . Nos.3211 of 2022
and 18846 of 2021

Date :23/02/2022

sjj

SS/SBN/SAR.IV/16.03.2022/4P/7C

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