



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

RESERVED ON : 03/03/2022

PRONOUNCED ON: 09/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.3215 of 2022

- 1.Pattumurugan
- 2.Hema
- 3.Uthra

... Petitioners/Accused 1,2&4

Vs

1. State represented by
The Inspector of Police,
Thallakulam Police Station,
Madurai City.
(Crime No.139 of 2022)

... Respondent/Complainant

2. R.Vasanthi

... Petitioner/DefactoComplainant/
Intervenor/Victim

For Petitioners: Mr.Y.Sasikumar, Advocate

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

For Intervenor : Mr.S.Karthikeibalan, Advocate

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

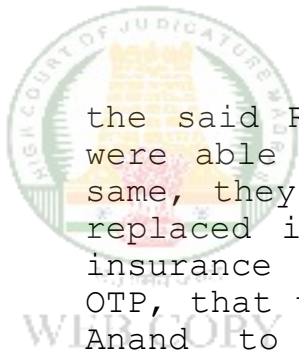
PRAYER :-

For Anticipatory Bail in Crime No.139 of 2022 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
420, 465, 468, 471 and 419 IPC and Section 66D of Information
Technology Act, 2000, in Crime No.139 of 2022, seek anticipatory
bail.

2.The case of the prosecution is that the defacto complainant
is a retired TSO officer in BSNL, Madurai, and her husband Ravi was
a retired staff in Union Bank of India, that the said Ravi availed
HDFC Life Insurance Policy in his name and put his friend's son one
R.Vivek Anand as nominee, that the said Ravi, due to corona, had
died on 21.05.2021, that the second petitioner, who is the sister of



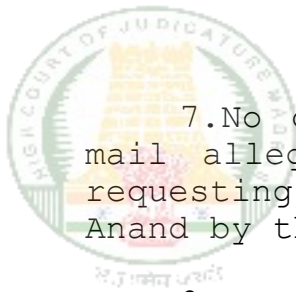
the said Ravi and her family members/the other petitioners herein were able to take hold of the said Ravi's mobile and by using the same, they conspired together and changed the nominee E-mail Id and replaced it with the third accused E-mail Id by manipulating the insurance account using mobile number of the deceased by getting OTP, that thereafter they have changed the nominee name from S.Vivek Anand to Hema and that all the accused had attempted to misappropriate the said insurance amount by forging and manipulating the records of the HDFC Life Insurance Policy.

3.The petitioners' case is that the said Ravi was deserted by the defacto complainant immediately after their marriage in the year 1993, that the said Ravi has been residing with his sister's family/the petitioners herein, that the said Ravi executed his last Will to and in favour of his sister/the second petitioner and thereby, bequeathed all his immovable and movable properties, that due to stroke on 13.04.2019, the said Ravi could not fill up the policy document and hence, he asked his neighbour S.Vivek Anand to write the particulars, but the said S.Vivek Anand by putting his name as nominee and thereby impersonated himself as the son of the said Ravi, that the said Ravi while he is alive, sent an E-mail to the HDFC Life Insurance officials and asked them to change the nominee on 19.04.2019 and he revealed his intention of putting his sister's son/the third accused as his nominee in the said E-mail itself, that after the death of the said Ravi on 21.05.2021, the first petitioner sent an E-mail to HDFC officials and he entered into the HDFC portal and changed the nominee by way of inserting his wife/the second petitioner name, who is the beneficiary of the last Will of the deceased and that the defacto complainant has lodged the above complaint falsely implicating the petitioners.

4.The learned counsel for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and that they are respectable family in the said locality.

5.Considering the contentions of both the sides, it is clearly evident that after the death of the said Ravi, the defacto complainant and her son have been claiming the assets and properties left by him by alleging that they are the legal heirs of the deceased Ravi and whereas, the second petitioner, who is the sister of the said Ravi, has been claiming all the properties left by her brother including the insurance amount by alleging that the deceased Ravi has executed a Will in her favour, bequeathing all his properties.

6.It is pertinent to mention that though both the families have been making claims over the properties of the deceased, while he is alive, he has mentioned one S.Vivek Anand as his nominee in the HDFC Life Insurance Policy.



7.No doubt, the petitioners have produced the copy of the E-mail allegedly sent by the deceased Ravi to the HDFC officials requesting them to change the nominee by replacing the said S.Vivek Anand by the third petitioner.

8.Even according to the petitioners, when the deceased Ravi was applying for the HDFC Life Insurance Policy, he had taken the help of his neighbour S.Vivek Anand to fill up the form and at that time, the said S.Vivek Anand by impersonating himself as the son of the said Ravi has mentioned his name as nominee.

9.As rightly contended by the learned counsel for the intervenor, it is not known as to whether, the deceased Ravi has really sent the E-mail on 19.04.2019.

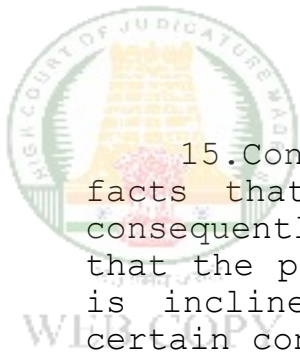
10.No doubt, the intervenor has produced the copy of the legal heirs certificate and wherein, the intervenor and her daughter were shown as the legal heirs of the deceased Ravi. But at the same time, as rightly pointed out by the learned counsel for the petitioners, since the defacto complainant had deserted her husband Ravi long back, she has not shown her husband name anywhere in the official records and even in the Aadhaar Card and in the death certificate, defacto complainant's name does not find place.

11.It is not in dispute that original petition for issuance of succession certificate is pending before the Additional District Court, Madurai.

12.According to the petitioners, they have filed two suits and the same are also pending.

13.The learned counsel for the intervenor would submit that the bank accounts of the deceased Ravi were already frozen at the instance of the defacto complainant. He would further submit that though they have lodged the complaint with the jurisdictional Police and thereafter to the higher police officials, the same were of no avail and that therefore, the defacto complainant was constrained to prefer a complaint under Section 156(3) Cr.P.C. The learned jurisdictional Magistrate has passed an order directing the police to register the case, that even thereafter the respondent police has not chosen to register the case, that thereafter, the defacto complainant was constrained to file a petition before this Court in Crl.O.P.(MD)No.2940 of 2022 seeking direction to the police officials to register the case and that thereafter FIR came to be registered in Crime No.139 of 2022 for the offences under Sections 420, 465, 468, 471 and 419 IPC and Section 66D of Information Technology Act, 2000.

14.Whether the Will alleged to have executed by the deceased Ravi is true and genuine is the aspect that can only be decided by the Civil Court. As of now, there existed rival claims.



15. Considering the above facts and circumstances and also the facts that there existed civil dispute between the parties and consequently, proceedings are pending before the civil Court and that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

16. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on 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, Madurai, 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 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 one month 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.

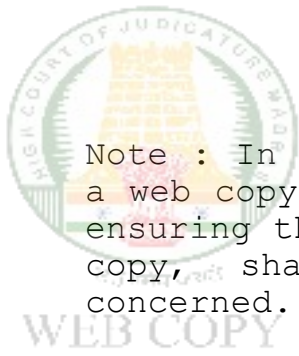
[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
09/03/2022

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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.II,
MADURAI.
 2. DO-THROUGH : THE CHEIF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 3. THE INSPECTOR OF POLICE,
THALLAKULAM POLICE STATION,
MADURAI CITY.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.Y.SASIKUMAR, Advocate (SR-1870[I] dated 10/03/2022)

ORDER
IN
CRL OP(MD) No.3215 of 2022
Date :09/03/2022

USK/PN/SAR-I/15.03.2022/5P/6C