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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 25/04/2022

PRONOUNCED ON: 18/05/2022

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD) . No.5299 of 2022

1. Mohamed Abdul Kader
2. Mohamed Arsath
3. Mohammed Rafiq ... Petitioners/Accused 2,5&6

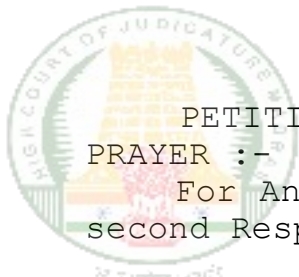
Vs

1. The State represented by
The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal,
Dindigul District.
(Crime No.70 of 2022) ...Respondent/Complainant
2. The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
(R2 impleaded as per the
order of this Hon'ble Court dated
29.03.2022 in Crl.M.P.(MD)
No.4135 of 2022 in Crl.O.P.
(MD)No.5299 of 2022) ... 2nd Respondent

For Petitioners: Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates,

For Respondents: Mr.R.Sivakumar,
Government Advocate(Crl. Side).

For Intervenor : Mr.R.Ramasamy, Advocate.



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

PRAYER :-

For Anticipatory Bail in Crime No.70 of 2022 on the file of the second Respondent Police.

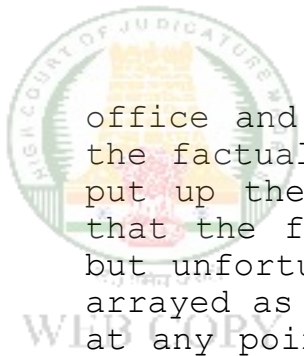
ORDER : The Court made the following order :-

The petitioners/A.2, A.5 & A.6, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120B, 419, 465, 471 and 467 IPC, in Crime No.70 of 2022, seek anticipatory bail.

2.The case of the prosecution is that Sub Registrar, Kodaikanal has lodged a complaint against the petitioners and others alleging that on 09.03.2021 at about 01.18 p.m., while he was on duty, a document was submitted by an unknown person for registration, that on perusal of the said document, the document was registered as Doc.No.464 of 2022 at about 02.29 p.m., that subsequently at the time of signing, the Sub Registrar has found that the connected mother document's (Doc.No.1509 of 1995) office seals and signatures differed on comparison with the original, which was kept on the file of the Sub Registrar, that on account of suspicion, the Sub Registrar enquired about the same with the persons, who came to receive the alleged document, that during the said enquiry, the above persons had given contradictory statements before the Sub Registrar and subsequently they had accepted their illegal activities of impersonation, forgery and cheating. Hence, the above complaint.

3.The petitioners' case is that they have not committed any offence as alleged by the prosecution, that without conducting proper enquiry, the respondent police has registered the above case, that the first petitioner is a bonafide purchaser of the alleged property and the petitioners 2 and 3 are the workers of the first petitioner and that the petitioners have no way connected with any illegal activities of the impersonation and forgery as alleged by the prosecution.

4.The petitioners' further case is that the first petitioner has been running a stationery shop at Chennai, that one Sudalai, Advocate, who is the first accused, is a regular customer at the first petitioner's shop and on account of the said relationship, the first accused had offered a property situated at Kodaikanal for sale, that the first petitioner along with the first accused went to visit the property and thereafter the first petitioner entrusted all legal formalities to the first accused for registration of the said property without knowing his mockery habits, that the first petitioner has paid the valuable consideration to the first accused and after the completion of all legal formalities, the first accused informed the first petitioner for registration, that on the basis of



office and only at the time of registration, he came to know about the factual back drop of the case, that the petitioners 2 and 3 had put up their signatures in the alleged sale deed as witnesses and that the first petitioner is one of the victims of the said case, but unfortunately, the first petitioner along with his workers were arrayed as accused, that the petitioners have not cheated any person at any point of time and that they have been falsely implicated in the above case.

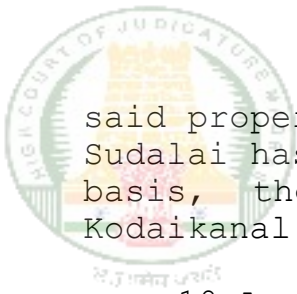
5. During the pendency of the above petition, fourth accused one Mukesh has filed an intervening petition in Crl.M.P.(MD)No.5181 of 2022 and wherein, he has stated that the intervenor is a law college student and used to drive the car for the petitioners/accused, that the petitioners are the habitual offenders doing same type of offences, that they used to engage the intervenor for driving car, that the intervenor is an innocent person and he went to Kodaikanal as acting driver for the petitioners along with the impersonated woman, that they registered the document and when they tried to collect the document from Kodaikanal Sub Registrar, the Sub Registrar gave the complaint to the police and that since the intervenor being the car driver, he has also been implicated in the above case.

6. The intervenor has further stated that the first petitioner has taken a registered power of attorney in respect of 12,000 sq.ft. property in Chengalpattu vide Doc.No.332 of 2022 dated 25.01.2022 and the said document was registered in Tenkasi Sub Registrar office, that the woman, who impersonated as Chithra in the power deed, has also impersonated the owner of Kodaikanal property at the time of registration, that the petitioners are the main accused and that he has come forward with the above petition to bring the real facts and truth before this Court.

7. The learned Senior counsel for the petitioners would submit that the intervenor is the close aide of the main accused Sudalai and he has filed the above petition as directed by the main accused Sudalai as if the petitioners are the main accused, that the main accused Sudalai is still absconding and the said main accused alone had cheated the first petitioner, for which, the intervenor has helped and aided the main accused and that the petitioners were not aware of the alleged impersonation and forgery done by the intervenor, the main accused and others.

8. No doubt, the intervenor has produced the copy of the general power of attorney executed in favour of the first petitioner by two women, namely, Chithra and Latha on 25.01.2022 in respect of two properties situated at Uthandi village, Saidapet Taluk, Chengalpattu District.

9. The learned Senior counsel for the petitioners would further submit that the intervenor has produced the copy of the power of attorney executed in favour of the first petitioner's attempts to purchase the



said property in Chengalpattu was not materialised, the main accused Sudalai has then offered the property at Kodaikanal and only on that basis, the first petitioner along with his workers came to Kodaikanal for registration.

10.As rightly contended by the learned Senior counsel for the petitioners, the intervenor being one of the accused is not having any *locus standi* to intervene in the matter and it is not the case of the intervenor that the real facts and truth as alleged by the intervenor were already brought to the notice of the investigating officer.

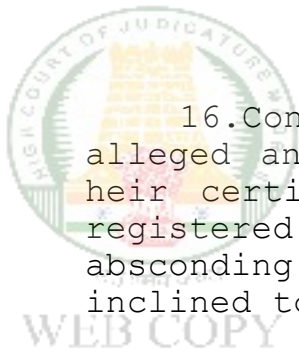
11.The learned Government Advocate (Criminal Side) would submit that the intervenor, in his confession statement, has specifically admitted that only on the directions and instructions of the Advocate Sudalai, he came to Kodaikanal along with Latha and driver Athipoor Rahuman and that since the intervenor being the close aide of the main accused, he is not entitled to intervene as if he is revealing the truth.

12.Considering the above, the intervenor being one of the accused and alleged to be close aide of the main accused, who is still absconding, is not entitled to intervene and as such, the application for intervening is dismissed.

13.The learned Government Advocate (Criminal Side) would further submit that the property in dispute is owned by one Raja Lakshmi, W/o.Ravi Krishnan, that the said Raja Lakshmi is very much alive, that the accused including the petitioners had obtained a bogus death certificate as if the said Raja Lakshmi was already dead and also obtained a bogus legal heirs certificate as if one Santhana Lakshmi is the legal-heir of the deceased Raja Lakshmi and that they had also changed the name of Latha in Aadhar Card and the name of Santhana Lakshmi and produced the sale deed for registration and got it registered. He would further submit that the owner of the property Raja Lakshmi and her husband had given a statement under Section 161 Cr.P.C., that all the accused had created bogus death certificate and legal heir certificate and forged Aadhar Card and got the sale deed registered in favour of the first petitioner.

14.The learned Government Advocate (Criminal Side) would further submit that the first petitioner has also taken power of attorney from two other ladies, namely, Chithra and Latha in respect of the property in Chengalpattu on 25.01.2022, that the main accused is still absconding and that investigation is pending.

15.As rightly contended by the learned Government Advocate (Criminal Side), the petitioners have not shown that the first petitioner has really paid the alleged sale consideration to the main accused Sudalai and that therefore the first petitioner is only a mere straw purchaser.



16.Considering the seriousness and gravity of the offence alleged and also the way in which bogus death certificate, legal heir certificate and Aadhar card were created and got sale deed registered and also the fact that the main accused is still absconding and that investigation is pending, this Court is not inclined to grant anticipatory bail to the petitioners.

17.In the result, this Criminal Original Petition is dismissed.

sd/-
18/05/2022

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

CSM

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 Inspector of Police,
Kodaikanal Police Station,
Kodaikanal,
Dindigul District.
2. The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-5003[I] dated 23/05/2022

ORDER
IN
Crl OP(MD)No.5299 of 2022
Date :18/05/2022

PKP/VR/SAR-4/30.05.2022/5P/5C

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