



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 04/07/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

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Cr1.OP(MD)No.7100 of 2022

1.Salamon
2.Jeyanthi
3.Victoriya Rani
4.Arun
5.Helen Mary

... Petitioners/
Accused Nos.1 to 3, 5 & 4

Vs.

The State rep.by
The Inspector of Police,
Kodaikanal Police Station,
Kodaikannal,
Dindigul District.
(Crime No.88 of 2022)

... Respondent/Complainant

David Ponpandian

... Petitioner/Intervener/
Defacto Complainant
In Cr1.MP(MD).6394/2022 in
Cr1.OP(MD).7100/2022

For Petitioners : Mr.RAJA.KARTHIKEYAN, Advocate

For Respondent : Mr.B.THANGA ARAVINDH
Government Advocate (Criminal side)

For Intervenor : Mr.M.AJMAL KHAN, Senior Advocate
for M/s.Ajmal Associates

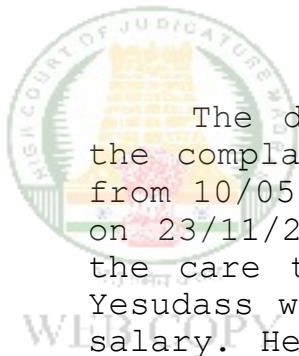
PETITION FOR ANTICIPATORY BAIL under Sec.438 of Cr.P.C

PRAYER:- For Anticipatory Bail in Crime No.88 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1 to A4, A5 and A6 apprehending arrest at the hands of the respondent police for the offences punishable under sections 120(B), 448, 294(b), 427, 506(2), 465, 468 and 471 IPC, in Crime No.88 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution in brief:-



The de-facto complainant says that the property ment in the complaint belongs to CSI Church, Kodaikanal. In that property, from 10/05/1985, (*)one Yasudass was appointed as gardener. He died, on 23/11/2012. Subsequent to that, his son by name Salamon became the care taker. The son, wife and the daughter of the above said Yesudass were residing in the quarters. Salamon was getting monthly salary. He was terminated from service and asked to hand over the possession. The property was later leased out to the Kodaikanal International School. He broke open the quarters door and occupied the same and caused damage to the window. When that was questioned by the de-fcto complainant on 31/03/2022 at about 9.00 am, the above said Saloman stated that patta is standing in his name and also criminally intimidated. He created a forged document and he had also sold the property to Sathishkumar, on 19/06/2021. Based upon the complaint, the case was registered.

3. Seeking anticipatory bail, this petition came to be filed on the ground that the property, which is now under dispute was in possession of the petitioners, even before independence. The revenue records also standing in the name of the first petitioner till 23/02/2022. He has paid kist and tax and also enjoying the same. The de-facto complainant tried to encroach the property. The property was gifted to the petitioners ancestors by the father of the Arcot American Mission, Kodaikanal while leaving India before independence. Now the de-facto complainant claimed right over the property. According to the petitioners, this property absolutely belonged to the first petitioner by way of the above said gift and the de-facto complainant Trust has no right over the same.

4. The learned counsel appearing for the intervenor, who is the de-facto complainant would submit that the above said gift deed itself is a forged one and the first petitioner was directed to produce the copy of the gift deed, but he was not in a position to produce the same. Challenging the patta transfer proceedings, the first petitioner has filed WP(MD)No.4110 of 2022, by which the patta was re-transferred in the name of Arcot American Mission, Kodaikanal and interim stay has been granted by this court in the above said writ petition.

5. It was submitted by the learned counsel appearing for the intervenor/de-facto complainant that even after the cancellation of the patta that was granted in favour of the first petitioner, having known the above said fact he sold the property to one Sathishkumar, on 19/07/2021. The copy of which is also produced. According to the intervenor/de-facto complainant, this shows that the petitioners entertained cheating intention right from the inception period. So challenging the patta transfer only, he filed writ petition and suppressing the cancellation of the same, he sold the property to the above said Sathishkumar. If at all the said Sathishkumar may lodge a complaint stating that he was cheated by the petitioners. But it appears that no such complaint has been given by the



6.No doubt that both parties are claiming rival title property. Who is entitled for the property is matter for investigation or trial or by instituting a proper civil suit. So in the facts and circumstances of this case, whether the custodial interrogation is required, is a matter for consideration.

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7.As mentioned earlier, it is the contention on part of the intervenor/de-facto complainant to the effect that patta has been obtained and ever-since, the property only standing in the name of the de-facto complainant and the first petitioner was working as an employee. Later he was terminated. To show the same, they have produced the receipts showing the disbursement of the monthly salary.

8.No doubt this document shows that the first petitioner is employed in the above said trust. Whether by using the same, he obtained wrong patta, is a matter for consideration as stated above. So, this petition can be disposed of by granting anticipatory bail on condition that the petitioners must cooperate with the respondent for the completion of the investigation and if during the course of investigation, if it is found that the custodial interrogation of the petitioners is required, then the respondent is at liberty to approach the concerned court for appropriate relief.

9.Considering the above facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Kodaikanal, Dindigul District and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate concerned and the petitioners shall appear before the respondent police, daily at 10.00 a.m. until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

sd/-

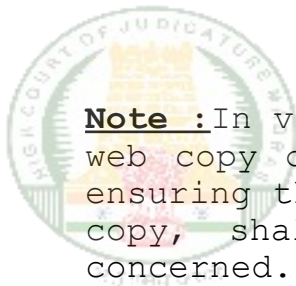
04/07/2022

**(*) For being Mentioned as per order
of this Hon'ble Court dated
08.08.2022 in Crl OP(MD)No.7100 of
2022**

/ TRUE COPY /

/08/2022

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.

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TO

TO BE SUBSTITUTED WITH THE ORDER DATED 04/07/2022 ALREADY DESPATCHED

1 THE JUDICIAL MAGISTRATE, KODAIKANAL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE,
KODAIKANAL POLICE STATION,
KODAIKANAL, DINDIGUL DISTRICT.

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

+1. CC to M/S. RAJA.KARTHIKEYAN Advocate SR.No.6641

+1. CC to M/S. AJMAL ASSOCIATES Advocate SR.No.8331

ORDER

IN

CRL OP(MD) No.7100 of 2022

Date :04/07/2022

SA/VR/SAR.2/07.07.2022/4P/6C

RK/SVR/SAR-III (17/08/2022) 4P/7C