



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/12/2022

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PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP (MD) . Nos.7211 and 7318 of 2022

Crl.O.P. (MD)No.7211 of 2022

K.S.Rajashanmughavel

... Petitioner/Accused

Vs

State represented by
The Inspector of Police,
City Crime Branch,
Trichy City,
Trichirapalli District.
(Crime No.9 of 2022)

... Respondent/Complainant

For Petitioner : M/s.S.Mahalakshmi, Advocate
For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor
For Intervenor : Mr.R.Senthilkumar, Advocate

Crl.O.P. (MD)No.7318 of 2022

1.A.Paulraj
2.M.Margret Prema Sheela
3.Peric Vidhia Dharan

... Petitioners/Accused No.2,4,5

Vs

State Rep.by
The Inspector of Police,
City Crime Branch (CCB),
Commissioner of Police Office Complex,
TVS Tollgate, Trichy - 20,
Trichy District.
(Crime No.09 of 2022)

... Respondent/Complainant

For Petitioners : Mr.R.Sundar, Advocate
For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor
For Intervenor : Mr.R.Senthilkumar, Advocate



PETITIONS FOR ANTICIPATORY BAIL Under Section 438 of Cr

COMMON PRAYER :-

For Anticipatory Bail in Crime No.9 of 2022 on the file of the Respondent Police

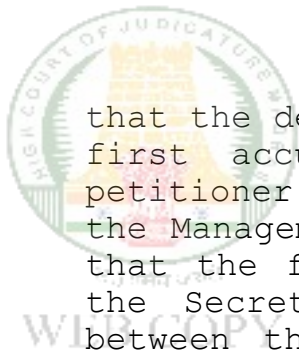
COMMON ORDER : The Court made the following order :-

The petitioners/A.1, A.2, A.4 and A.5, who apprehend arrest at the hands of the respondent police for the offences under Sections 417, 420, 294(b), 506(1) and 120(B) IPC in Crime No.9 of 2022, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant P.T.Rajan is that the accused on the false representation claiming that the School and the land measuring to an extent of 4 acres 0.06 cents belongs to him, had induced him and entered into a sale agreement during the year 2009 and on various dates, received a sum of Rs.1,17,00,000/- and executed a power of attorney in favour of him and thereafter, cheated him by executing agreement with some other third parties. Hence, the case.

3.The learned counsel appearing for the petitioner/first accused in Crl.O.P.(MD)No.7211 of 2022 would submit that the case of a loan transaction has been falsely projected as a case of agreement to sale. She would further submit that admittedly, even as per the defacto complainant, an agreement has been entered into during the year 2009 and the petitioner has also given a power of attorney in favour of the defacto complainant, based on the power of attorney, the defacto complainant has also entered into a sale agreement with one P.Muthukumar and received a sum of Rs.37 lakhs from him and the said P.Muthukumar has also filed a suit in O.S.No.108 of 2022 on the file of the District Court, Tiruchirappalli seeking for specific performance. The defacto complainant suppressing all the pending suits has filed a false complaint before the respondent police to harm the petitioner and settle the civil suit by way of police action and under threat of arrest. If at all the defacto complainant has found that the accused persons are not the owner of the property, he should gone to the Court either for specific performance against the owner, who has given power or for seeking returning of the amount, whereas, without resorting to the civil dispute, a false complaint has been given.

4.The learned counsel appearing for the petitioners/ accused Nos.2, 4 and 5 in Crl.O.P.(MD)No.7318 of 2022 would submit that the first petitioner is the Secretary of the School and the second petitioner is the wife and the third petitioner is the son of the first petitioner. He would further submit that the defacto complainant has entered into a sale agreement with the first accused and the petitioners are not aware of the transaction between the



that the defacto complainant has obtained power of attorney from the first accused behind the back of the petitioners. The first petitioner is the Secretary of the Trust and he has got interest in the Management of the School and the Trust. He would further submit that the first accused had also removed the first petitioner from the Secretaryship of the Trust and civil suit is also pending between them. He would further submit that the case of a money transaction between the first accused and the defacto complainant is given a criminal colour and under the threat of arrest, now the defacto complainant is attempting to recover money from the petitioners. He would further submit that the third accused, who is an Auditor is stated to be the common friend of the petitioners and the defacto complainant, who has introduced and he has been granted anticipatory bail by this Court in Crl.O.P.(MD)No.7140 of 2022 dated 01.09.2022. He would further submit that in respect of the agreement during the year 2009 a belated complaint has been given after 13 years.

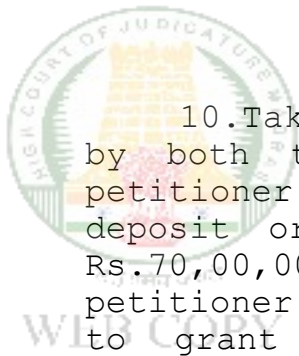
5.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners/accused, who are the Trustee of the School have induced the defacto complainant on the assurance of transferring the School and the lands in favour of him and received a sum of Rs.1,17,00,000/- and cheated the defacto complainant. He would further submit that investigation is pending. However, he would submit that the third accused has been granted anticipatory bail by this Court.

6.The learned counsel appearing for the intervenor would submit that the petitioners on the false assurance of selling the School and the lands have entered into a sale agreement and over a period of 5 years received a sum of Rs.1,17,00,000/- thereby cheated the defacto complainant. He would further submit that later the defacto complainant came to know that the lands belongs to Samayapuram Mariamman Temple which has been suppressed by the accused. Hence he opposed to grant anticipatory bail to the petitioners.

7.In reply, the learned counsel appearing for the petitioners would submit that the defacto complainant very well knowing that the lands belongs to Samayapuram Mariamman Temple and it is only a loan transaction and there was no intention of the petitioners to sell the School and the property to the defacto complainant only a false complaint has been given.

8. The learned counsel appearing for the petitioner in Crl.O.P.(MD)No.7211 of 2022 would submit that the petitioner to show his bonafides is ready and willing to deposit original title deeds of immovable property worth about Rs.70,00,000/- either belonging to the petitioner or his relatives or his friends.

9.Heard. Perused the materials available on record.



10. Taking into consideration the facts and the submissions made by both the counsels and also considering the fact that the petitioner in Crl.O.P.(MD)No.7211 of 2022 is ready and willing to deposit original title deeds of immovable property worth about Rs.70,00,000/- (Rupees Seventy Lakhs only) either belonging to the petitioner or his relatives or his friends, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

11. 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 on which the order copy made ready, before the learned Judicial Magistrate No.I, Tirchirapalli, on condition that the petitioners shall execute 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 condition that:

[a] at the time of executing sureties, the petitioner in Crl.O.P.(MD)No.7211 of 2022 alone shall deposit original title deeds of immovable property worth about Rs.70,00,000/- either belonging to the petitioner or his relatives or his friends. Thereafter only the learned trial Judge shall accept the sureties furnished by the petitioner in Crl.O.P.(MD)No.7211 of 2022.

[b] 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 Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

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

sd/-

12/12/2022

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

CSM

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TO

1 THE JUDICIAL MAGISTRATE NO.I, TRICHY.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE, CITY CRIME BRANCH (CCB),
COMMISSIONER OF POLICE OFFICE COMPLEX, TVS TOLLGATE,
TRICHY CITY, TRICHIRAPALLI DISTRICT.

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

+1 CC to M/S.R.SENTHIL KUMAR, Advocate SR.No.61726[F]

+1 CC to M/S.R.SUNDAR, Advocate SR.No.14719[I]

ORDER

IN

CRL OP (MD).Nos.7211 &7318 of 2022

Date :12/12/2022

RS/MMS/SAR.4 (28.12.2022) 5P-7C