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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 12/08/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Cr1.OP(MD)No.10816 of 2022

1.Chandiran @ Chandran @ Durai
2.Arunachalam
3.Karuppasamy

... Petitioners/Accused 1, 2 & 4

Vs.

State rep.by
The Inspector of Police,
Sathankulam Police Station.
Thoothukudi District.
(Crime No.210 of 2022)

... Respondent/Complainant

Delshad Begum

... Petitioner/Intervener/
De-Facto Complainant
(in Cr1.M.P.(MD)No.7123/2022)

For Petitioners : Mr.P.M.Vishnuvarthanan, Advocate

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

For Intervenor : Mr.S.Venkatesan, Advocate

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

PRAYER:-

For Anticipatory Bail in Crime No.210 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1, A2 and A4 apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 506(i) and 420 IPC, in Crime



No.210 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that she purchased the property in survey Nos.1182/2, 1184/1A, 1184/3, 1181/2 and 1182/1 measuring about 10.46 acres from the original owner Augustin Jebaraj through a registered sale deed, on 09/10/2017. Patta was transferred subsequent to that in her name. Chitta and Adangal were also registered. She is also in possession of the property. In the meantime, A1 created a forged lease deed and filed a suit in O.S No.57 of 2021 on the file of the District Munsif Court, Sathankulam. That was dismissed for default, on 16/03/2022. On 03/06/2022 at about 4.30 pm, when she was standing in the property along with her husband, the accused persons came there, abused her in filthy language and also criminally intimidated. Based upon the above said occurrence, the case was registered.

3.Seeking anticipatory bail, the petitioners, who are arrayed as A1, A2 and A4 are before this court.

4.Heard both sides.

5.Perusal of the records shows that even though, there is no dispute with regard to the original ownership of the property, the dispute is only with regard to the possession. A1 claims that he is the cultivating tenant in respect of the property. But whereas, it is the case of the de-facto complainant that the above said document is a forged one. A suit in O.S No.57 of 2021 was filed for permanent injunction, on the basis of the above said sale agreement.

6.According to A1, in March 2017, he became the cultivating tenant for monthly lease amount of Rs.10,000/-. The total amount of Rs.7,35,000/- was also paid, on 28/03/2017. That was also reduced into writing. From that onwards, he is in possession and Adangal was also entered in his name. Later, he came to know that the first defendant namely the original owner Augustin Jebaraj has sold the property to the de-facto complainant herein. Whether there was any title of tenancy or not, there is no proof. It is a matter for investigation and trial.

7.According to the de-facto complainant, her case is that on 02/08/2017, the lease holder of the property namely Subbaiah Konar executed a surrender deed in favour of the original owner Augustin Jebaraj. From that onwards, the original owner was in possession of the property. Subsequently, he sold the same to the de-facto complainant. From this it is seen, the disputed question of facts are involved.

8.The learned counsel appearing for the petitioners would rely upon the entry in the Adangal, which was made by the Village Administrative Officer, wherein he has stated that the first



petitioner is in possession of the property and Adangal has been issued for the purpose of purchasing fertilizer from the co-operative society. The genuineness and reliability of the document is a matter for investigation.

9. Since the disputed question of facts are involved, I find that no prima facie proof to show that it is a case of forgery, even though a report has been received from the private handwriting expert that the document is a forged one, the real owner is the competent person to speak about the genuineness of the document. Augustin Jebaraj has written a letter to the Inspector of Police, Sathankulam stating that he did not enter into any such lease agreement with A1 and it is a forged document. Since, documentary evidence are involved in this matter, I am of the considered view that no custodial interrogation of the petitioners is required in this matter.

10. So 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, Sathankulam 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 Magistrate concerned and the petitioners shall appear before the respondent police, daily at 10.30 am, until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

Sd/-
12/08/2022

/ TRUE COPY /

/09/2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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.



1. THE JUDICIAL MAGISTRATE,
SATHANKULAM.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3. THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
THOOTHUKUDI DISTRICT.

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

+1. CC to M/S.VISHNUVARTHANAN P M Advocate SR.No.8515

+1. CC to M/S.S.Venkatesan Advocate SR.No.37977

ORDER

IN

CRL OP (MD) No.10816 of 2022

Date :12/08/2022

SP/SVR/SAR II/07/09/2022/4P/7C