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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 14/12/2022

PRESENT

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

CRL OP(MD). No.12389 of 2021

1. Devarajan

2. Subash ... Petitioners/Accused 1&2

Vs

1.The Sub Inspector of Police,  
District Crime Branch,  
Thoothukudi.  
Cr.No.22/2020.

... Respondent/Complainant

2.Jesbar Milton Maharaja ...Petitioner/Intervener  
in Cr1 MP(MD)No.500 of 2022

For Petitioner : M/s. Muthumalai Raja.S,  
Advocate.

For Respondent : Mr.T.Senthilkumar,  
Additional Public Prosecutor

For Intervenor : Mr.R.Maheswaran, Advocate

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

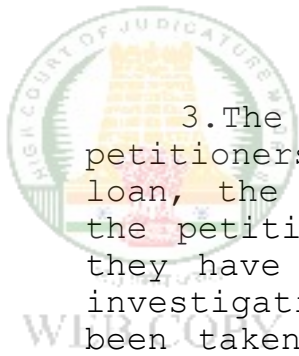
PRAYER :-

For Anticipatory bail in Crime No.22 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the offence under Sections 120(b), 420, 423, 468, 470, 474 and 34 IPC in Crime No.22 of 2020, seek anticipatory bail.

2.The case of the prosecution is that the accused have created a bogus patta and on the strength of the bogus patta, created a sale deed and subsequently, mortgaged the property with the bank and borrowed a loan of Rs.1.5 Crores. Hence, the case.



3.The learned counsel for the petitioners would submit that the petitioners are the owners of the property and they have applied for loan, the bank after conducting due diligence had granted loan to the petitioners, whereas, a false complaint has been given as if they have fabricated the patta. He would further submit that the investigation in this case has been completed and the case has also been taken up for trial in C.C.No.47 of 2022 on the file of the Special Court for Land Grabbing Cases (FAC), Thoothukudi. He would further submit that the entire case of the prosecution is borne out by documents and the custodial interrogation of the petitioners may not be required at this stage and thereby, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor would submit that the petitioners had fabricated the patta in respect of the property belonging to the de-facto complainant and based on that, had obtained a loan of Rs.1.5 Crores from the bank. Thereby, he opposed to grant anticipatory bail.

5.The learned counsel for the intervenor would submit that the de-facto complainant is the owner of the property, whereas, the accused had fabricated the patta and obtained loan from the bank causing prejudice to the petitioners.

6.Heard. Perused the materials available on record.

7.Taking into consideration the facts and the submissions and that the investigation in this case has been completed and the case has been taken up for trial in C.C.No.47 of 2022 on the file of the Special Court for Land Grabbing Cases (FAC), Thoothukudi and that the custodial interrogation of the petitioners is not required in this case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.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 Special Court for Land Grabbing Cases (FAC), Thoothukudi, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Special Court concerned and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court/concerned Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the concerned Court every day at 10.30 a.m., for a period of four weeks and thereafter, on the dates fixed by the learned Trial Judge.



[c] the petitioners shall not tamper with 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 Special Court/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 Special Court/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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-  
14/12/2022

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/12/2022  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

sj i

TO

- 1.THE SPECIAL COURT FOR LAND GRABBING CASES (FAC),  
THOOTHUKUDI.
- 2.THE SUB INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH,  
THOOTHUKUDI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL OP(MD) No.12389 of 2021  
Date :14/12/2022

RK/VR/SAR-1 (21/12/2022) 3P/4C