



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 14/09/2022
Delivered on : 19/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.14890 of 2022

1. Lingammal
2. Ganesh Bab
3. Paneerselvam
4. Selvarani

... Petitioners/Accused Nos.2 to 5

Vs.

The State rep.by
The Sub Inspector of Police,
District Crime Branch,
Virudhunagar District.
In Crime No.14/2022.

... Respondent/Complainant

L.Natarajan

... Petitioner/De-facto Complainant
In Cr1.MP(MD).10658/2022 in
Cr1.OP(MD).14890/2022

For Petitioners : M/s.Jothi Basu M,Advocate.
For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Cr1.Side)
For Intervenor : Mr.S.VENKATESH,Advocate.

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

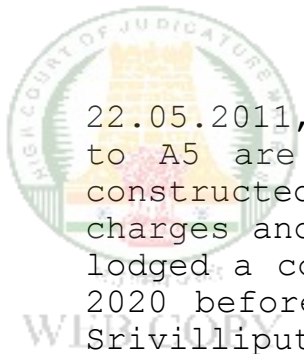
PRAYER :- for Anticipatory bail in Crime No.14/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 465, 468, 471 I.P.C. in Crime No. 14 of 2022, seek anticipatory bail.

2. The allegation against the petitioners is that the defacto complainant is the original owner of the property with an total extend of 55 cents, he purchased the property on 11.07.1984. On 10.10.2008, the elder brother of the defacto complainant, viz.,Maheswaran-A1, has executed a settlement deed in favour of his family members, without the knowledge of the defacto complainant. A case in Crime No.14 of 2022, was registered against the petitioners.

3. On the side of the petitioners, it is stated that on 10.10.2008, the defacto complainant's elder brother -Maheswaran executed a settlement deed in favour his legal heirs. On



22.05.2011, the said Maheswaran-A1 died. The petitioners h¹² to A5 are in possession and enjoyment of the property and they constructed a house in the land and they are paying electricity charges and property tax. In the year 2020, the defacto complainant lodged a complaint. In between he has filed a suit in O.s.No.68 of 2020 before the Principal District Court, Virudhunagar District at Srivilliputhur, to cancel the document, dated 10.10.2008. The petitioners herein are the defendants 1 to 4 in the suit. Hence, the police closed the complaint as civil in nature. On 13.08.2022, the respondent police registered a case in Crime No.14 of 2022 on the same cause of action. The defacto complainant give a criminal colour to a civil dispute, which is already barred by limitation and prayed the petitioners to be released on anticipatory bail.

4.1. On the side of the intervenor, it is stated that the property was purchased by the defacto complainant on 11.07.1984, out of his own earnings and he constructed a house in the year 1986, then he mortgaged a portion of the property measuring 10 cents including the house, through a registered mortgage deed, dated 22.07.1987 and he redeemed the mortgage on 06.03.2008. The husband of the first petitioner-A1 requested the intervenor to allow him to stay in the house without any rent. Out of love and affection, the defacto complainant allowed the husband of the first petitioner-A1 and his family members to occupy the house without any rent, on condition that they should vacate the house and hand over the vacant possession, whenever the defacto complainant demand possession.

4.2. On 24.04.2008, the second petitioner and his father approached the defacto complainant for execution of a sale deed in their favour and the defacto complainant refused to execute the sale deed, he was assaulted and threatened by them. On 24.06.2008, the defacto complainant lodged a complaint before the Deputy Superintendent of Police, Rajapalayam, and the first petitioner's husband -A1 was warned by the police.

4.3. Thereafter, the defacto complainant shifted his residence to Madurai for the Education of his son. During the year 2020, when the defacto complainant approached the Bank to obtain a loan, he viewed the Encumbrance Certificate and came to know that the deceased-Maheswaran-A1 mortgaged a portion of the land during November-2009 and that the petitioners and the deceased created forged documents.

4.4. On 28.08.2020, on the instigation of the second petitioner, third petitioner trespassed into the property. The defacto complainant lodged a complaint before the Superintendent of Police, Virudhunagar. As a counter blast, the petitioners sent a legal notice as if they were harassed by the police. Even after registration of this complaint, the petitioners are still harassing the defacto complainant. One of the witness-Somasundaram was threatened by the petitioners 2 and 3. If the petitioners are



released on bail, they will tamper the witness and pr - re
petition to be dismissed.

5. On the side of the prosecution, it is stated that A1 in the case was already dead. A2 to A5 are the petitioners herein. A1 was the elder brother of the defacto complainant. There is a civil dispute pending between the parties. He further stated that there is no previous case against the petitioners.

6. On the side of the petitioners, it is stated that the defacto complainant was only a name lender, he was not the owner of the property and the property was in possession of the petitioners for more than 12 years. The defacto complainant gave a criminal colour to a civil suit.

7. Considering the nature of the offence and considering the overt act attracted against the petitioners 2 to 4, this Court is not inclined to allow the petition insofar as the petitioners 2 to 4 are concerned. Hence, this Petition is dismissed as far as the petitioners 2 to 4 are concerned.

8. Considering the age of the first petitioner (68 years), this Court is inclined to grant anticipatory bail to the first petitioner alone with certain conditions.

9. Accordingly, this petition is partly allowed and the first petitioner alone is ordered to be released on bail in the event of her arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Virudhunagar District, on condition that the first petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the first petitioner 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;

(b) the first petitioner shall report before the respondent police daily at 10.30 am until further orders;

(c) the first petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the first petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

<https://www.mhc.tn.gov.in/judis> the first petitioner shall not harass the defacto



complainant and his family members;

(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the first petitioner in accordance with law as if the conditions have been imposed and the first petitioner 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]; and;

sd/-

19/09/2022

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/09/2022

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
VIRUDHUNAGAR DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.JOTHI BASU.M Advocate SR.No.10201

ORDER

IN

CRL OP(MD) No.14890 of 2022
Date :19/09/2022

LS

SA/SBN/SAR.1/21.09.2022/4P/6C