



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 08/09/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGOVAN

Cr1.OP (MD) No.15923 of 2021

1.M.Kumaravel
2.Krishnapillai
3.R.Saravanan

... Petitioners/Accused No.1,2 & 4

Vs.

1.The State rep. By
The Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli District.
(Crime No.28 of 2019)

... Respondent/Complainant

(*) 2.Rajasekar

... 2nd Respondent/Defacto
Complainant

(*) (R2-Suo Motu impleaded as per
order dated 27.07.22 of this
Hon'ble Court in Cr1.O.P.(MD)
No.15923 of 2021 by GIJ)

For Petitioners : Mr.S.Palani Velayutham, Advocate

For 1st Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

PRAYER:-

For Anticipatory Bail in Crime No.28 of 2019 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 420, 423, 467, 468 and 471 IPC, in Crime
No.28 of 2019 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 he owned 32 acres in Vellapaneri village, Sankarankovil Taluk, Tirunelveli District. He handed over the above said property to one K.Madasamy, Advocate for the purpose of management. With his consent, that property was sold to a Windmill company. During enquiry, it was found that a portion of the Survey No.445/3 measuring about 2.45 cents were found to be sold by some other person. It was also found that by impersonation, sale deed has been executed in respect of the above said property and it has been registered on 10/02/2011. Knowing fully well that the property does not belong to the seller, the above said company purchased the property that it is a case of impersonation. When he contacted the above company, they promised to return Rs.1.50 Crores. Later failed to pay the amount and cheated. Over the above said cheating, they filed a complaint and in the enquiry also, the accused persons promised to pay the money. Later, failed to appear. In spite of repeated adjournments of enquiry, the accused persons did not appear. The representative of the company also made an undertaking. But later, he failed to comply the condition. With the above said allegation, the de-facto complainant lodged a complaint. Over which, the present case has been registered, on 26/08/2019.

3.Now seeking anticipatory bail, A1, A2 and A4 are before this court.

4.For the purpose of making settlement, the de-facto complainant has impleaded as second respondent. Notice was also served upon him. Since, it was submitted before this court that the matter has been compromised between the parties, summon was issued to the 2nd respondent. But he failed to appear. In-spite of specific direction issued to the first respondent, who is the Inspector of Police, that was also not complied. So the matter was heard on merits.

5.Now it has been contended on the behalf of the petitioners to the effect that even though impersonation alleged to have been taken place in 2011, the complaint has been given only in 2018 I.e., after a lapse of 8 years and after receiving the sale consideration only, the de-facto complainant has lodged a complaint with false allegations. But later on coming to know that some sort of dispute with regard to the property, the above said sale deed was cancelled, on 19/06/2019. On that ground, now anticipatory bail has been sought.

6.The copy of the cancellation of sale deed has been produced, wherein it has been mentioned that due to unavoidable circumstances, they are not in a position to enforce the sale deed. With the consent of both sides, the above said sale deed, dated 10/02/2011 was cancelled, on 19/08/2019.



7. Now the question arises for consideration is whether the above said sale deed has been executed by impersonation. A1 has stated in the sale deed that he is the owner of the property. So on the ground heard both sides to know whether any compromise between the parties and the complainant was *suo motu* impleaded as the second respondent in this petition. But failed to appear. Since the alleged sale deed executed has been cancelled by the accused person, no purpose is going to be served by subjecting the petitioners to custodial interrogation.

8. Who committed impersonation is a matter of investigation. Only on the sole ground, this petition is liable to be allowed, of course with condition that the petitioners shall appear before the respondent and cooperate with him to complete the process of investigation. During the course of investigation, if the custodial interrogation of the petitioners is required, then the first respondent is at liberty to approach the concerned court for necessary orders.

9. In view of the above facts and circumstances, 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 Court for Anti Land Grabbing Special Cell (ALGSC), Tirunelveli 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 Judge concerned and the petitioners shall appear before the respondent police daily at 10.00 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 Judge 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/-
08/09/2022

/ TRUE COPY /

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



1. THE JUDGE, ANTI LAND GRABBING
SPECIAL CELL (ALGSC),
TIRUNELVELI DISTRICT.
2. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUNELVELI,
TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S. PALANI VELAYUTHAM.S. Advocate SR.No.9890

ORDER
IN
CRL OP(MD) No.15923 of 2021
Date :08/09/2022

SP/SVR/SAR II/20/09/2022/4P/5C