



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 15/12/2022

PRESENT

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

CRL OP(MD) .Nos.15957,15964,15960, 15850, 15851 of 2022

Mahesh	... Petitioner/Accused No.2 in Crl OP(MD) No.15957/2022
1. Sekar	
2. Palsamy	... Petitioner/Accused No.4&5 in Crl OP(MD) No.15964/2022
Palanisamy	... Petitioner/Accused No.1 in Crl OP(MD) No.15960/2022
Murugaiyan	... Petitioner/Accused No.3 in Crl OP(MD) No.15850/2022
A.Kannagi	... Petitioner/Accused No.6 in Crl OP(MD) No.15851/2022

Vs

1. The State Rep. by, The Inspector of Police, District Crime Branch Police Station, Karur District. Crime No. 21/2022.	... Respondent/Complainant in all Crl.O.Ps.
2. K.Manikandaraja	... Petitioner/Intervener in Crl MP(MD) No.10697,10607, 10698, 10696, 10603/2022.

For Petitioners : M/s. Thalaimutharasu G, Advocate.
IN CRL OP(MD) Nos.15957, 15960 & 15851/2022
Mr.T.Antony Arulraj, Advocate
IN CRL OP(MD) No.15964/2022
M/s.Muthu Kamatchi, Advocate
IN CRL OP(MD) No.15850/2022

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)
IN ALL THE PETITIONS

For Intervenors : Mr.B.Saravanan, Advocate
IN ALL THE PETITIONS



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

COMMON PRAYER :-

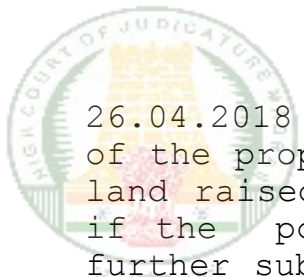
For Anticipatory Bail in Crime No.21 of 2022 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 465, 471, 406 and 420 IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, in Crime No.21 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the Defacto Complainant is that during the month of September 2016, the defacto complainant approached the 1st accused, for loan of Rs.10,00,000/- for his urgent needs. An extent acre 2.50 in S.F.No.275/1A and extent of acre 1.96 ½ in S.F.No.233/2 of Punjai Thottakurichi Village belongs to the defacto complainant. The 1st accused who is doing Kanthuvatti business has obtained a power deed from the defacto complainant by compulsion as security for the loan on 27.09.2016. Thereafter, the defacto complainant was unable to pay monthly interest for few month in the year of 2019. In these circumstances, the 1st accused had demanded Rs.25,00,000/- from the defacto complainant with an intention to settle the loan as per their demand, they have refused to cancel the power of attorney deed on 10.07.2019 and after verification, he came to know that the accused have already created a sale deed in the name of 2nd accused on 26.04.2018 missing the power obtained by the 1st accused as a security for the loan. Even after the cancellation of power, the accused has collusively continuously has created sale deeds, in their names in order to grab the properties of the defacto complainant and they forged the signature of the defacto complainant in the life certificate and the alleged payment receipt. Hence, the defacto complainant made a complaint before the respondent police and same was registered and hence, the case has been registered against the petitioner and other accused in Crime No.21 of 2022 for the offence under Sections 120 (b), 465, 471, 406 and 420 IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

3. The learned counsel appearing for the petitioner in Crl.O.P (MD).No.15957 of 2022 submitted that the defacto complainant had intended to sell the property in favour of the petitioner / A2. After paying the sale consideration the petitioner had obtained a power of attorney. Later, based on the power of attorney he had entered into a sale agreement with A2 and subsequently, by a valid sale deed dated 20.11.2017 had sold the property to A3 in full. Subsequently, A3 had sold the part of the property to A4 on



26.04.2018 and later by another sale deed dated 18.04.2020 of the property was sold to A5. On coming to know that the value of land raised the defacto complainant has given a false complaint as if the power of attorney was given to A1 only as security. He further submitted that if it is true that the power of attorney had been given towards security the defacto complainant would have retained the original parent document whereas the entire original documents / title deeds were handed over to the petitioner. He further submitted that it is true that the power of attorney had been given towards security the defacto complainant had earlier preferred a complaint on 16.11.2020 before the Superintendent of Police and it was referred to respondent police for enquiry and after due enquiry, the petition has been closed as civil in nature. Subsequently, the defacto complainant has filed a suit in O.S.No.372 of 2020 to declare the sale deed as null and void. Further, suppressing the earlier complaint the defacto complainant has given a fresh complaint to Superintendent of Police by giving criminal colour based on which, a case has been registered. He further submitted that A1 entered into a sale agreement with A2 and subsequently, cancelled the same and later the property was sold to A3 hence, the petitioner herein is in no way connected with the offence.

4.The learned Counsel for the Petitioner in CrI.O.P(MD). No.15850 of 2022 would submit that the petitioner herein is arrayed as A3 in this case and he is a bonafide purchaser having purchased the property from A1 for valid consideration and amounts were paid through bank transactions, other than having purchased the property. The petitioner has no role in this case.

5.The learned Counsel for the Petitioner in CrI.O.P(MD). No.15964 of 2022 would submit that petitioners herein are arrayed as A4 and A5 in this case and they are subsequent purchasers having purchased part of the property from the earlier owners.

6.The learned Counsel for the Petitioner in CrI.O.P(MD). No.15851 of 2022 would submit that the petitioner herein is arrayed as A6 in this case and he is also a subsequent purchaser and he has not committed any fabrication or forgery of documents. The learned counsel for the petitioners in all the cases would submit that it is a case of civil dispute and the civil suit is pending before the concerned and thereby, seeks anticipatory bail.

7.The learned Government Advocate (CrI.Side) would submit that the 1st accused had borrowed a sum of Rs.10,00,000/- from the defacto complainant and he had executed a power of attorney in favour of A1 as security for the loan and subsequently, A2 has sold the property for huge amount to the other accused by forgery and fabrication of documents and had cheated the defacto complainant and hence, he opposes to grant anticipatory bail to the petitioners.



8. The learned counsel for the intervenor submitted that the defacto complainant had received only a sum of Rs.10,00,000/- towards the loan and he has executed a power of attorney in respect of property worth more than Crore for security purpose only.. Based on the power of attorney the accused had colluded and created forged sale deeds and cheated the defacto complainant.

9. Heard the learned counsels appearing on either side and perused the materials on record. Taking into consideration the facts and circumstances of the case and that the civil suit is pending before the court below and that the documents have been registered based on the registered Power of Attorney, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. 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 Judicial Magistrate No.II, Karur, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] Except A1, the other petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter as and when required for interrogation; A1 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 until further orders;

[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 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]**.



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

sd/-
15/12/2022

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/01/2023

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

TRP

TO

1. THE JUDICIAL MAGISTRATE NO.II,
KARUR.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
KARUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.THALAIMUTHARASU.G, Advocate (SR-14935[I] dt.15/12/2022)

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-14938[I] dt.15/12/2022)

+1 CC to M/s.V.MUTHUKAMATCHI, Advocate, SR-14944[I] dated 15/12/2022

+2 CC to M/s.THALAIMUTHARASU.G, Advocate (SR-14934 & 14936[I] dt.15/12/2022)

ORDER IN
CRL OP(MD).Nos.15957,15964,
15960,15850,15851 of 2022
Date :15/12/2022

USK/BUC/SAR-I/04.01.2023/5P/10C