



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

Dated: 13/07/2022

PRESENT

WEB COPY

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.17302 of 2021

1. K.Vasimalai
2. Ramar

: Petitioners/Accused
Rank Not known

Vs.

State represented through
The Inspector of Police,
District Crime Branch,
Madurai District.
(Crime No.29 of 2021)

: Respondent/Complainant

For Petitioner : Mr.J.Jeyakumaran, Advocate
For 1st Respondent : Mr.B.Thanga Aravindh
Government Advocate (Criminal side)
For Intervenor : Mr.M.Venkatesan, Advocate

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

PRAYER:- For Anticipatory Bail in Crime No.29 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as accused apprehending arrest at the hands of the respondent police for the offences punishable under section 420 IPC, in Crime No.29 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant is elder sister of the accused persons namely K.Vasimalai and Ramar. Their father was having ancestral property in Survey Nos.587/2B, 587/3, 587/9, 587/6 and 585/2 at Elumalai Village, Peraiyur Taluk, Madurai District. That property was divided between the brothers, on 27/12/2021 namely between the accused persons. In pursuance of the above said partition, separate pattas were also obtained. On 07/12/2020, the accused persons executed a deed in favour of their sons. So a complaint has been lodged by the de-facto complainant on the ground that she had a share in the property and in spite of the above said fact, they have executed a sale deed. On the basis of the complaint given by the de-facto complainant, the case was registered.



3. Seeking anticipatory bail, the accused K.Vasimalai and Ramar are before this court during enquiry stage. Later, the case was registered in Crime No.29 of 2021 for the offence under section 420 IPC.

4. Heard both sides.

5. The matter was referred to mediation, since the dispute is between the sister and brothers, claiming share over the ancestral property. Even though the matter was referred to the mediation, it could not be settled. The reason for not settling the matter is not known.

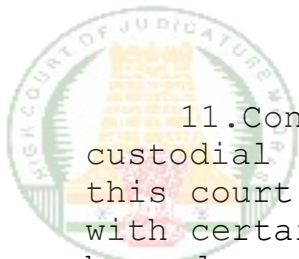
6. Now the question arises for consideration is whether in the facts and circumstances of the case, the petitioners are entitled for anticipatory bail.

7. As mentioned in the complaint, the de-facto complainant claims that she is also having a share in the property. But suppressing the above said issue, the accused persons have executed a settlement deed in favour of their sons, on 07/12/2020. So according to her, it is a clear case of cheating.

8. It is the case of the petitioners to the effect that the property was already divided, on 23/12/2011 between the brothers. The copy of the partition deed is also enclosed in the typed set of papers. Reading of the partition deed shows that the first petitioner and the second petitioner entered into a partition, wherein they have stated the property originally belonged to their father Kallimuthupillai ancestrally. By consent and arrangement, they were entering into a partition, by which 'A' schedule was allotted to K.Vasimalai and 'B' scheduled was allotted to Ramar.

9. The de-facto complainant's case is that suppressing her share in the property, partition deed was entered and subsequently, settlement deed was also executed. It appears that the de-facto complainant claims share over the property by virtue of the Hindu Succession Amendment Act, 2005. So by virtue of the above said Amendment Act, female heirs are also having a share in the ancestral property. If the partition deed or settlement deed was executed between the brothers, it may not bind the de-facto complainant. So, she can work out her remedy by filing a suit for partition. But it appears that no such suit has been filed by the de-facto complainant.

10. In the facts and circumstances of the case, whether there was an intention on the part of the petitioners to cheat the de-facto complainant, even at the time entering the partition deed, is a matter for investigation and trial.



11.Considering the facts and circumstances of the case, the custodial interrogation of the petitioners may not be required. So, 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 No.1, Madurai 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 on further condition that 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 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/-

13/07/2022

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

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.

TO

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

+1 CC to M/s.M.VENKATESAN, Advocate (SR-7061[I] dated 13/07/2022)

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-7153[I] dated 15/07/2022)

ORDER IN

CRL OP(MD) No.17302 of 2021

Date :13/07/2022

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USK/SVR/SAR-III/15.07.2022/3P/7C

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