



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/02/2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.19320 of 2021

and

CrI.MP(MD) No.323 of 2022

1. R.Babu Shanmugam @ Kutti
2. R.Babu Shanmuga Prasath
3. R.Karthik

... Petitioners/Accused
Nos.1,2 & 6

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
Ramanathapuram District.
(Crime No.17 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Jeyakarthik M.S., Advocate.

For Respondent : M/s.T.Senthil Kumar
Additional Public Prosecutor

For Intervenor : M/s.D.Balamurugapandi, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.17 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections



420, 465, 468, 471 & 477 IPC in Crime No.17 of 2021, seek anticipatory bail.

3.The allegation as against the petitioners is that the petitioners encroached the defacto complainant's land. The learned counsel appearing for the petitioners submits that they are the owners of the land in Survey No.271, Surangkottai Village. The defacto complainant is the owner of Survey No.279/1A1. Both the lands are adjacent lands. The third accused, namely, one Ganapathy has put up some construction in the land in Survey No.279/1A1, for which, a complaint has been lodged as against the petitioners also, wherein, the allegation as against the petitioners is that the petitioners also encroached 10 cents of land in Survey No.279/1A and also put up fencing.

4.Considering the nature of allegations and the request made on either side, this Court, by earlier order dated, 29.04.2021 referred the matter to Mediation. However, both the parties have not taken any steps to appear before the Mediator and the matter is pending without any progress for more than six months. Considering the attitude of the parties, this Court by earlier order dated, 22.09.2021 dismissed the application filed by the petitioners, for anticipatory bail.

5.The learned counsel appearing for the petitioners submits that during COVID 19 pandemic situation, the Mediation Centre has not conducted any mediation and there is no fault on their part.

6.Considering the allegations as against the petitioners that they have not encroached the defacto complainant's land and there is no allegation that they have created any forged document, this Court is inclined to grant anticipatory bail to the petitioners. It is not known how the respondent police have registered a criminal case for issues like encroachment.

7.Accordingly, this criminal original petition is allowed and 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 of receipt of a copy of this order, before the Special Court for Land Grabbing Cases, Ramanathapuram, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only)each, with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners shall report before respondent police as and when required, until further orders.



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

It is open to the defacto complainant to measure his land and establish his right through proper Civil Forum. Consequently, connected Miscellaneous petition is closed.

Sd/-

09/02/2022

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/ /2022

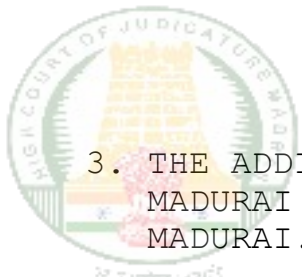
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VRN

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 SPECIAL COURT FOR
LAND GRABBING CASES,
RAMANATHAPURAM
2. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ANTI LAND GRABBING SPECIAL CELL,
RAMANATHAPURAM.



3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.JEYAKARTHIK M.S. Advocate SR.No.925

+1. CC to M/S.D.BALAMURUGAPANDI, Advocate SR.No.915

ORDER
IN
CRL OP (MD) . No.19320 of 2021
and
Crl.MP (MD) No.323 of 2022
Date :09/02/2022

SP/SBN/SAR II/15/02/2022/4P/6C