



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated :17/10/2022
PRESENT

WEB COPY

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.18359 of 2022

1. Ganesh Babu
2. Paneerselvam
3. Selvarani

... Petitioners/Accused Nos.3 to 5

Vs.

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

... Respondent/Complainant

For Petitioners : M/s.Jothi Basu M,
Advocate.

For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

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

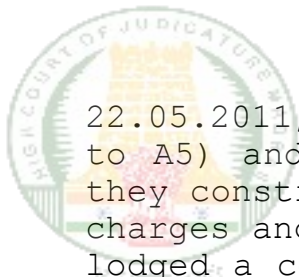
PRAYER :- For Anticipatory bail in Crime No.14/2022 on the file of the Respondent Police.

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 of 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 the property was purchased by the elder brother of the defacto complainant, by name, Maheswaran, in the name of the defacto complainant. The defacto complainant is only a name holder. 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 h A3 to A5) and A1 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. A1 is the first defendant and the petitioners herein are the defendants 2 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. On the side of the prosecution, it is stated that A1 in the case was already dead. A3 to A5 are the petitioners herein. A1 was the elder brother of the defacto complainant. There is a civil dispute pending between the parties. There is no change of circumstances. A2 was already released on anticipatory bail, in Crl.O.P.(MD)No.14890 of 2022, on 14.09.2022, only on the age factor. Custodial interrogation of the petitioners is necessary. Earlier petition filed by the petitioners, in Crl.O.P.(MD)No.14890 of 2022, was dismissed, on 14.09.2022, this is the second anticipatory bail application and prayed the petition to be dismissed.

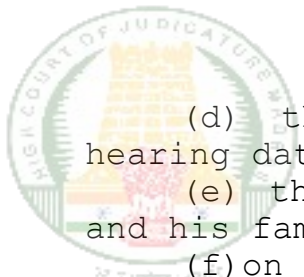
5. Considering the facts and circumstances of the case and considering the fact though the earlier petition was dismissed on 19.09.2022 itself, the prosecution has not taken any steps to arrest the petitioner, hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, this petition is allowed and the petitioners are ordered to be released on bail in the event of their arrest or their 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 petitioners shall execute a 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 to the Police Officer, who intends to arrest or 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 Aadhar card or Bank pass Book to ensure their identity;

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

(c) the petitioners shall not tamper with evidence or witness



(d) the petitioners shall be present before the hearing dates and before the respondent police as and when required;

(e) the petitioners 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 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]; and;

(g) If the accused thereafter absconds, FIR can be registered under Section 229-A IPC.

sd/-

17/10/2022

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/10/2022

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.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.G.M.LAW OFFICE, SR.No.11484

ORDER

IN

CRL OP(MD) No.18359 of 2022

Date :17/10/2022

LS

SA/VR/SAR.1/20.10.2022/3P/6C

<https://www.mhc.tn.gov.in/judis>