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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/12/2022

PRESENT

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

CRL OP(MD). No.19774 of 2022

1. M.Tabrez Shaiff Khazi

2. M.Asan Ali Moideen Pichai ... Petitioners/Accused No.3&4

Vs

1.The State rep.by,
The Inspector of Police,
District Crime Branch,
Madurai District.
Crime No.1 of 2022..

... Respondent/Complainant

2.Ramprasath

...Petitioner/Intervener/
Defacto complainant
in CRL MP(MD)No.15176 of 2022

For Petitioner : M/s.Balaji S,
Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

For Intervenor : Mr.Sundara Raj D.P
Advocate.

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

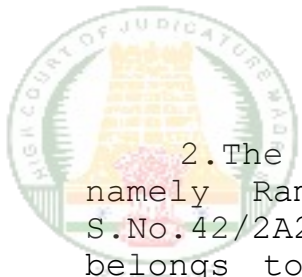
PRAYER :-

For Anticipatory Bail in Crime No.1 of 2022 on the file of the Respondent Police.

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), 419, 420, 465, 468 and 471 of IPC, in Crime No.1 of 2022 on the file of the respondent police, seek anticipatory bail.

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



2.The case of the prosecution as per the de-Facto Complainant, namely Ramprasad is that the property measuring 30 cents in S.No.42/2A2 at Neerethan Village, Vadipatti Taluk, Madurai District, belongs to his grant parents and his mother Annalakshmi is only legal heir of her parents. She passed away on 17.08.2020. The defacto complainant, his brother and his sister are in possession and enjoyment of the property after the demise of their mother Annalakshmi. Whiles, with an intention to grab the property, one unknown person has impersonated as his mother Annalakshmi and executed a power of attorney on 23.12.2020 infavour of A2. In which, the petitioners (Accused No.3 & 4) herein stood as witnesses. The fifth accused has prepared the document and registered the same with the help of accused No.6 & 7. Hence, the complaint.

3.The learned Counsel for the Petitioners would submit that the Petitioners are innocent. They have been falsely implicated in this case. He would further submit that the petitioners are arrayed as 3 & 4. The allegation against the petitioners is that they stood as witnesses to the power of attorney. The main accused Abdul Ajees, infavour of whom the power of attorney executed, has approached this Court by filing a petition in Crl.OP(MD)No.5016 of 2022. This Court has allowed that petition on 31.03.2022 on the undertaking given by him that he will not create any encumbrance over the property. Hence, he prays for grant of anticipatory bail.

4.The learned Government Advocate would submit that the petitioners are the main accused. By impersonation as the mother of the defacto complainant, the accused made an attempt to grab the property belonging to the defacto complainant and his siblings. Hence, he opposes to grant anticipatory bail.

5.The learned counsel for the Intervenor would submit that the defacto complainant, his brother and his sister are the actual owners of the property having inherited the property from their mother. Whiles, by impersonation and forgery, the accused have attempted to grab the property. Hence, he opposes to grant anticipatory bail.

6.Heard the learned counsels. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.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 **(*)learned Special Judicial Magistrate Court for exclusive trial of Land Grabbing Cases, Madurai**, 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 M. 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] the petitioners shall report before the learned Judicial Magistrate, Antiland Grabbing, Madurai, everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am 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/-

06/12/2022

(*)Amended as per order of the Court dated 12/01/2023 in CrI.MP (MD).717/2023 in CrI.OP(MD). 19774/2022.

Further time is extended for a period of two weeks from the date of receipt of amended copy of this Order.

/ TRUE COPY /

/02/2023

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

DSS



TO

TO BE SUBSTITUED WITH THE ORDER DATED 06/12/2022 ALREADY DESPATCHED

1.THE JUDICIAL MAGISTRATE NO.4, MADURAI.

2.THE SPECIAL JUDICIAL MAGISTRATE COURT FOR
EXCLUSIVE TRIAL OF LAND GRABBING CASES, MADURAI.

3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

4.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT.

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

COPY TO

THE JUDICIAL MAGISTRATE, ANTILAND GRABBING, MADURAI.

+1 CC to M/s.S.BALAJI, Advocate (SR-761[I] dated 19/01/2023)

ORDER

IN

CRL OP(MD) No.19774 of 2022

Date :06/12/2022

RK/MMS/SAR-3 (23/12/2022) 4P/7C

CMR

SA/MMS/SAR.1/01.02.2023/4P/8C