



WEB COPY



Crl.O.P.No.27545 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.Nos.27545 of 2023

1.Karunakaran

2.Mahendran

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
CBCID, Thiruvarur South Police Station,
Thiruvarur District.

(Crime No.01 of 2023)

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.

praying to enlarge the petitioners on bail in FIR in Crime No.01 of 2023 on
the file of the respondent police.

For Petitioners : Mr.R.C.Paul Kanagaraj
for Mr.S.Arivazhagan

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)

For Intervenor : Mr.C.D.Johnson

ORDER

The petitioners/A12 & A-13 in Crime No. 01 of 2023, registered
under Sections 120-B, 419, 468, 471, 420 and 506(i) IPC seek bail.



Crl.O.P.No.27545 of 2023

WEB COPY

2. It is stated that they had been taken into custody on 11.10.2023 with respect to an occurrence which had taken place on 23.1.2018. The delay in taking them into custody had been explained by the learned Government Counsel (Crl.Side) by stating that originally a complaint had been lodged before the jurisdictional police and thereafter the investigation had been transferred to CBCID, Thiruvarur. The CBCID, Thiruvarur had taken the present petitioners into custody.

3. It is the case of the prosecution that the second and third accused are the sons of the first accused. Originally, the property belonged to the father of the first accused, who had executed a Will on 29.08.1987 bequeathing the property in equal shares to the first accused and his brother Raja. It is stated that the said Raja committed suicide on 24.06.2023 and it is the specific case of the prosecution that he died owing to the instigation of the first accused. It is stated that therefore, the first accused consolidated the property in his own name. Thereafter, it is stated that the accused Nos. 1 to 3 had given a Power of Attorney to the fourth accused, who is the wife of the fifth accused. It is further stated that the fifth accused had issued another Power of Attorney to the seventh accused, who had sold the property to the



Crl.O.P.No.27545 of 2023

sixth accused. It is further stated that the fourth accused is said to be a Panchayat President of a particular village at Mannargudi. She had filed an application seeking anticipatory bail which was dismissed and she took up the matter before the Hon'ble Supreme Court where the matter was remanded back to this Court. A learned Single Judge, again dismissed the anticipatory bail and thereafter, the Hon'ble Supreme Court had also dismissed it. A review petition and a curative petition were also dismissed. She was directed to surrender within a period of two weeks. It is further stated that she had however filed a fresh anticipatory bail before the learned Single Judge. So far as these petitioners are concerned, who are the accused Nos. 12 and 13, it is stated that there are no direct overt acts alleged against them.

4. The learned counsel for the petitioners during the course of his arguments pointed out that the petitioners were not directly or even indirectly involved in any of the transactions mentioned above. It is stated that they were totally innocent of the offences.

5. On the other hand, the learned Government Advocate (Crl.Side) stated that these petitioners had been taken into custody after investigation



Crl.O.P.No.27545 of 2023

had been transferred to CBCID. It is stated that the accused No.12 / Karunakaran had a ration card, which ration card was used for preparing a fake ration card and used for impersonation. It is stated that one Rosline, who was the owner but however the name was changed to Revathi and thereafter, it was used for the Registration purposes. It is also stated that the accused No.13 had signed as a witness to an agreement of sale. It is also contended that one Gnanmbal, who was alive was declared to be dead and the accused had also prepared a death certificate, which fake death certificate was also used in the course of various transactions.

6.The learned counsel for the intervenor is present. The matter had actually came up for hearing yesterday (07.12.2023) and this Court had directed the Registry to print the name of the learned counsel for the intervenor, who is also present today. He was also given an opportunity of being heard. The learned counsel for the intervenor also raised a very strong protest for grant of any relief to the petitioners herein. It is contended that all the accused persons had joined together to cheat the property from the defacto complainant and grab the same.



Crl.O.P.No.27545 of 2023

7.The earlier application seeking bail in Crl.O.P.No.25734 of 2023

had been dismissed by this Court on 23.11.2023. At that time, it had been observed that the first petitioner herein is said to have given his ration card to the other accused, who created a fake ration card. It was observed that the copy of the ration card is available as a document. With respect to the second petitioner, it was stated that he had signed as a witness to the agreement of sale. It was also observed that a witness may not know about the contents of the documents, but certainly identifies the parties to the document. One change in circumstances from the previous date is that the investigation has been practically completed. With respect to the grant of bail to the main accused, it is stated by the learned Government Advocate (Crl.Side) that steps are being taken to cancel the bail granted to the main accused. This procedure should be taken by the prosecution.

8.It is also seen that the period of incarceration of the petitioner should be seriously considered by this Court, particularly because, the statutory period of 60 days within which the investigation should be completed and final report to be filed, taking into consideration the seriousness of the offences, will expire within one or two days, and after that



Crl.O.P.No.27545 of 2023

the petitioner would be entitled to statutory bail as a matter of right of furnishing surety, it would only be appropriate that this Court examines the entire issue, taking into consideration the overtact specified against the petitioners herein which are considerably minimal than that of A1, A2 & A3 I am inclined to grant bail to the petitioners subject to the following conditions:

9. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 Chief Judicial Magistrate, Thiruvarur**, and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity.

[b]the petitioners shall report before the respondent police everyday at 10.00 a.m., until further orders.

[c] the petitioners shall not abscond either during investigation or trial.



Crl.O.P.No.27545 of 2023

[d] the petitioners shall not tamper with evidence or witness 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.

08.12.2023

sli

To

1. The Chief Judicial Magistrate, Thiruvarur.
2. Sub Jail, Mannargudi.
3. The Inspector of Police,
CBCID, Thiruvarur South Police Station,
Thiruvarur District.
(Crime No.01 of 2023)
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.27545 of 2023

C.V.KARTHIKEYAN, J.

sli

Crl.OP.No.27545 of 2023

08.12.2023