



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 25/01/2023

PRESENT

WEB COPY

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

CRL OP(MD) . No.121 of 2023

1. Ponnudurai

2. Selvasanthi

... Petitioners/Accused No.1 & 2

Vs

The State represented by
The Inspector of Police,
District Crime Branch, Tenkasi,
Tenkasi District
(Crime No.16 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Karthick R J

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.16 of 2022 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 294(b), 506(i) of I.P.C, in Crime No.16 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant is that the first accused is the own brother of the defacto complainant. He deposited a sum of Rs.20,61,050/- in the first accused's bank account on various days for the purpose of purchasing a property in S.Nos.505B/6, 504/2A, 505/5C, 506/A, 504/4A1A, 504/2D1 in Nagaram village, Sankarankovil Taluk, Tenkasi District. In the meanwhile, the first accused had executed a settlement deed bearing Doc.No.291 of 2022, in favour of second accused. On 20.10.2022, at about 07.00PM, the defacto complainant demanded the first accused to execute sale deed in favour of him. The first accused refused the same, abused him in filthy language and verbally intimidated him. Hence, the complaint.



3.The learned counsel for the petitioners submitted that the petitioners are innocent and a false case was foisted against them. The petitioners are husband and wife. The defacto complainant is none other than the own brother of the first petitioner. The property in dispute belonged to the brother (viz., Arun Seenivasan) of the first petitioner and the defacto complainant. The said Arun Seenivasan executed a settlement deed bearing Doc.No.1390 of 2016, dated 10.06.2016 in favour of the first petitioner and the defacto complainant. In turn, the first accused had executed a settlement deed bearing Doc.No.291 of 2022 in favour of his wife, viz., the second petitioner, in respect of his share. The property in dispute is undivided one. The second petitioner is in exclusive possession and enjoyment of her share. The second petitioner has also filed suit in O.S.No.320 of 2022 on the file of the Principal Subordinate Court, Sankarankovil claiming partition of half share in the suit property. The said suit is pending and the same is adjourned to 20.01.2023. There is no money transaction between the defacto complainant and the second petitioner and there is no specific overt act as against the second petitioner. No such occurrence as alleged in the FIR had taken place. Hence, prays to release them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the petitioners are respectively the brother and sister-in-law of the defacto complainant. The first petitioner had induced the defacto complainant to deposit amount in his bank account, on various dates, to the tune of Rs.20,61,050/- for the purchase of a property in favour of the defacto complainant. Later, without the knowledge of the defacto complainant, the first petitioner had settled the property in favour of the second petitioner, who is his wife. Hence, he would oppose for grant of anticipatory bail to the petitioners.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.Taking into consideration the facts and circumstances of the case and considering the nature of civil dispute between the parties, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of 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, Sankarankovil**, 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 the police officer who



concerned, failing which, the petition for anticipatory bail 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 learned Magistrate may obtain a copy of their Aadhar card or bank pass book to ensure their identity;

(b) the first petitioner shall report before the respondent Police daily at 10:30 a.m., for a period of two weeks, thereafter, on every Saturday at 10:30 a.m., until further orders and the second petitioner shall report before the respondent Police daily at 10:30 a.m., for a period of one week, thereafter, as and when required for interrogation;

(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]**; and;

(f) if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

25/01/2023

/ TRUE COPY /

/02/2023

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

TO

1 THE JUDICIAL MAGISTRATE, SANKARANKOVIL.

2 DO-THROUGH :

THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH, TENKASI,
TENKASI DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI.

ORDER

IN

CRL OP(MD) No.121 of 2023

Date : 25/01/2023