



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P(MD)No.1131 of 2023

1.R.Gopinath
2.V.Rajasekar
3.N.Dharmalingam
4.P.Kandasamy
5.V.Muthusamy

...Petitioners/A7 to A11

-vs-

State through
The Inspector of Police,
District Crime Branch,
Karur District.
(in Cr.No.9 of 2021)

...Respondent/Complainant

V.K.Rajendran

...Petitioner/Defacto Complainant
in Cr1 MP(MD)No. 1367 of 2023

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

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest by the respondent Police with respect to Cr.No. 09 of 2021 to the petitioners.

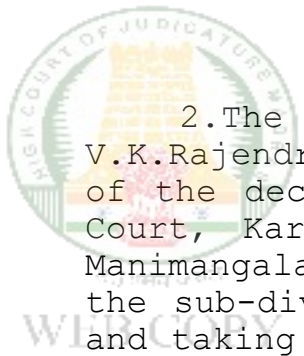
For Petitioners : Mr.Ananda Padmanabhan, Senior Counsel
for Mr.V.Muthukamatchi, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Cr1.side)

For Intervenor : Mr.B.Saravanan, Senior Counsel
for Mr.V.Sukumar, Advocate
in Cr1 MP(MD)No.1367 OF 2023

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 120(B), 420, 465 and 468 IPC in Crime No.09 of 2021 on the file of the respondent Police, seek anticipatory bail.

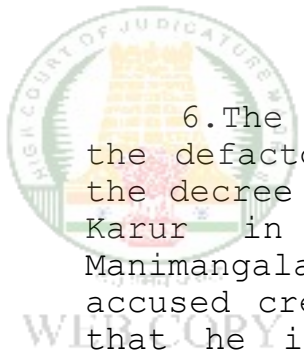


2.The case of the prosecution, as per the de-facto complaint at V.K.Rajendran is that he became the owner of the property by virtue of the decree passed in O.S.NO.42 of 2012 on the file of the Sub Court, Karur in respect of property situated in S.F.No.534/1 at Manimangalam Taluk, Athur Village measuring 5.58 cents. But during the sub-division, a mistake was committed by the revenue officials and taking advantage of the above mistake, the first accused namely Subramani created forged Will with the help of A2 to A4 and claimed that he is the owner of the property and subsequently A1 has executed power deed in favour of A5. Thereafter, they have sold the property to several persons without knowledge of the defacto complainant. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the first petitioner Gopinath was arrested and remanded to judicial custody and thereby this petition in respect of him has become infructuous.

4. In view of the above, this petition in respect of the first petitioner is dismissed as infructuous.

5.The learned counsel for the petitioners would further submit that the petitioners 2 to 5 are subsequent purchasers of the property. The 2nd and 3rd petitioners have purchased the property on 11.06.2021 and the petitioners 4 and 5 have purchased the property on 14.06.2021 after paying valuable consideration. He would also submit that earlier the first petitioner/A7 has made a complaint against the defacto complainant and 6 others stating that the defacto complainant has created a false settlement deed and he has colluded with the other accused and attempted to grab the property and based on the complaint given by the first petitioner, a case in Crime No.8 of 2021 came to be registered against the defacto complainant and 6 others and in that case, investigation is pending. He would also submit that other than having purchased the property for valuable consideration, the petitioners 2 to 5 have not committed any offence as alleged. It is his further submission that the defacto complainant claimed that some of the accused have taken advantage of the mistake have fabricated document whereas the defacto complainant has not taken any steps to correct the mistake so far and the entire case of the prosecution is borne out by the documents. He would also submit that this Court has granted anticipatory bail in Crl.O.P(MD)Nos.14903 and 14906 of 2021 dated 28.06.2022 to the accused 12 and 13 in this case, who have been similarly placed as that of the petitioners 2 to 5. He would reiterate that civil suits are pending before the courts between the parties and this case has been registered on the basis of the direction issued by the Magistrate under Section 156(3) Cr.P.C. The petitioners 2 to 5 are ready to abide by any stringent condition that may be imposed on them and hence, he prays for grant of anticipatory bail to the petitioners 2 to 5.



6.The learned Government Advocate (Crl.side) would submit that the defacto complainant is the owner of the property by virtue of the decree passed in O.S.No.42 of 2012 on the file of the Sub Court, Karur in respect of property situated in S.F.No.534/1 at Manimangalam Taluk, Athur Village measuring 5.58 cents and the first accused created forged Will with the help of A2 to A4 and claimed that he is the owner of the property and subsequently A1 has executed power deed in favour of A5. Thereafter, they have sold the property to several persons without the knowledge of the defacto complainant. He would further submit that enquiry reveals that the document on which the suit claim is made is a fabricated document. He would strongly object for grant of anticipatory bail to the petitioners 2 to 5, who are the subsequent purchasers. However, he would concede that the similarly placed accused/subsequent purchasers were granted anticipatory bail in Crl.O.P(MD)Nos.14903 and 14906 of 2021 dated 28.06.2022.

7.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners 2 to 5 with certain conditions.

8.Accordingly, the petitioners 2 to 5 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 Judicial Magistrate No.1, Karur, on condition that the petitioners 2 to 5 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 intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 2 to 5 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 2 to 5 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioners 2 to 5 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 2 to 5 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 2 to 5 in accordance with law as if the



conditions have been imposed and the petitioners 2 to 5 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/-
15/02/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CM
TO

- 1 THE JUDICIAL MAGISTRATE NO.I
KARUR.
 - 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
 - 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
KARUR DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.V.MUTHUKAMATCHI, Advocate (SR-2395[I] dated 16/02/2023

ORDER
IN
CRL OP(MD) No.1131 of 2023
Date :15/02/2023

PKP/VR/SAR-4/28.02.2023/4P/6C