



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.1174 of 2023

1.G.Rajesh
2.Vignesh
3.Parameshwari
4.P.Sivakumar
5.Selvaraj

... Petitioners/A2 to A6

-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 Crl MP(MD)No.1705 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.

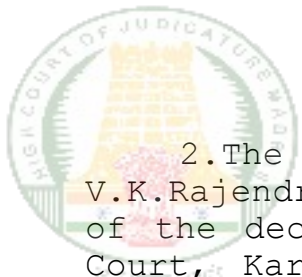
For Petitioners : Mr.Ananda Padmanabhan, Senior counsel
for Mr.T.Kalayarasan, Advocate

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

For Intervenor : Mr.B.Saravanan, Senior Counsel
for Mr.V.Sukumar, Advocate

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 complainant 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 further submit that the 5th accused namely, Sivakumar/the 4th petitioner herein in this case has been arrested along with A1 and granted bail by this Court in Crl.O.P(MD)No.2065 of 2023 by order dated 02.02.2023 and the second petitioner Vignesh has been granted bail by the lower court on 27.01.2023 and thereby the petition in respect of the petitioners 2 and 4 has become infructuous.

4. In view of the above, this petition in respect of the petitioners 2 and 4 is dismissed as infructuous.

5. He would further submit that a case of a civil dispute in respect of a property has been attempted to be projected as a criminal offence and innocent persons have been targeted. He would submit that the 7th accused in this case has earlier 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 attempted to grab the property and based on the complaint given by the first petitioner/A2, a case in Crime No.8 of 2021 has been registered against the defacto complainant and 6 others and investigation is pending in that case.

6. It is his further submission that the defacto complainant claimed that the petitioners, taking advantage of his mistake, have fabricated the document whereas the defacto complainant has not taken any steps to correct the alleged mistake so far and the entire case of the prosecution is borne out by the documents.

7. He would also submit the petitioners 1 and 3 are concerned, they are attestors in the sale deeds. The fifth petitioner Selvaraj is a subsequent purchaser and he is also similarly placed that of the accused 12 and 13 in this case, who have been granted anticipatory bail in Crl.O.P(MD)Nos.14903 and 14906 of 2021 dated 28.06.2022. He would reiterate that civil suits are pending between the parties before the courts 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 are ready to abide by any stringent order that may be imposed on them and hence, he prays for grant



of anticipatory bail to the petitioners 1, 3 and 5.

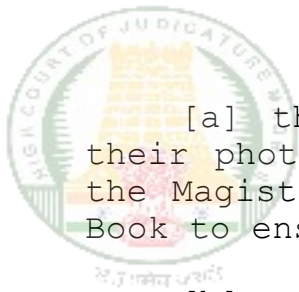
8. The learned Government Advocate (Crl.side) would submit that the petitioners 1 and 3 are the attestors to the sale deeds and after knowing that the document has been fabricated by the main accused, they have attested the documents and the property was sold to several other purchasers and the 5th petitioner is one among them. 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. He would strongly object for grant of anticipatory bail to the petitioners 1, 3 and 5.

9.Mr.B.Saravanan, learned counsel appearing for the intervenor would submit that the fifth petitioner namely Selvaraj is one of the subsequent purchasers and he has no objection to grant anticipatory bail to him. He would further submit that the first petitioner Rajesh and the third petitioner Parameshwari are the defendants in the earlier suit and they are aware of the fact that the defacto complainant is the owner of the property pursuant to the decree passed in the civil suit and the first accused knowing well has fabricated the document and others have stood as attestors of the sale deeds. He would also submit that the presence of the petitioners 1 and 3 in the Registration Office is also supported by the photos.

10. In reply, the learned counsel for the petitioners would submit that other than signing as attestors, the petitioners 1 and 3 have nothing to do with the offence and they are not beneficiaries to the transaction and the entire case of the prosecution is borne out by documents and they are ready to abide by any stringent conditions that may be imposed by this Court. They are ready to furnish their sample signatures as and when required by the respondent police.

11.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners 1, 3 and 5 with certain conditions.

12.Accordingly, the petitioners 1, 3 and 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 1, 3 and 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 1, 3 and 5 and the sureties shall submit 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 1, 3 and 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 1, 3 and 5 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 1, 3 and 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 1, 3 and 5 in accordance with law as if the conditions have been imposed and the petitioners 1, 3 and 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.1, 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.T.KALAIYARASAN, Advocate (SR-2394[I] dated 16/02/2023)

ORDER

IN

CRL OP(MD) No.1174 of 2023

Date :15/02/2023

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

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