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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 24/01/2023

PRESENT

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

CRL OP(MD) . No.1367 of 2023

1. Josepin Mary Sugirtham @  
Josephine Mary Sukirthem,
2. Kurushal Athaliva Gnanaprakasam @  
Gurusal Aurelia Gnanaprasam,
3. Priyadharshini Gnanaprakasam,  
@ Priyadharshini Gyanaprakashan,
4. Antony Anasdasas @ Anthoy Anastasus,
5. Saharamary @ Sahaya Mary Francis,  
... Petitioners/Accused NO 1 TO 5

Vs

The Inspector of Police,  
District Crime Branch,  
Kanyakumari District.  
(Crime No.48/2021).

... Respondent/Complainant

For Petitioner : M/s.Ramesh Raja P T,  
Advocate.

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

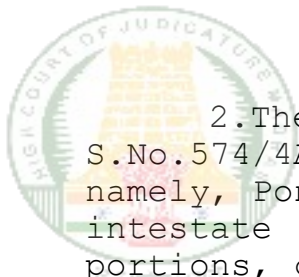
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.48/2021 on the file of the  
Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A5, who apprehend arrest at the hands of  
the respondent police for the offences punishable under Sections  
420, 465, 468, 471 and 120(B) of IPC, in Crime No.48 of 2021 on the  
file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that 14 cents of land in S.No.574/4A belongs to the father of the de-facto complainant, namely, Ponnaiah Nadar. The father of the de-facto complainant died intestate and hence, the 14 cents of land was divided into two portions, out of which, 7 cents of land was retained by the de-facto complainant and the other 7 cents of land was taken by the brother of the de-facto complainant, who had later sold the property to one Thangavelu. The further averment is that the husband of the first accused filed a suit in O.S.No.472 of 2007 against the son of the de-facto complainant on the file of the I Additional District Munsif Court, Nagercoil and that in the suit, the Court has rendered a judgment that the property belongs to the de-facto complainant. However, in order to grab the property, the children of the first accused who are the petitioners 2 to 4/A2 to A4 have executed a release deed in favour of their mother/A1. Hence, the case.

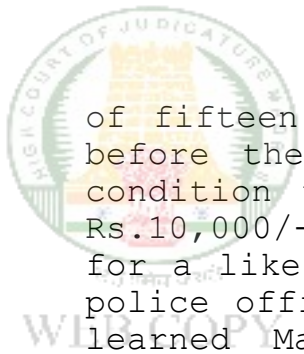
3.The learned counsel for the petitioners would submit that the land in S.No.574/4A was originally in the possession of the husband of the first petitioner and since the possession was disturbed by the de-facto complainant, the first petitioner's husband filed a suit in O.S.No.472 of 2007 before the learned I Additional District Munsif Court, Nagercoil, seeking for injunction. However it was dismissed and after the demise of the husband of the first petitioner, the petitioners 2 and 3 executed a release deed in favour of their mother/A1, in which, the fifth petitioner and A6 were stood as a witness to the document. He would further submit that earlier on the complaint given by the de-facto complainant, enquiry was conducted and thereafter, it was closed. Subsequently, the de-facto complainant has preferred a complaint under Section 156 (3) of Cr.P.C, based on which, the present case came to be registered. He would further submit that the petitioners are in possession of the property and that a case of civil nature has been exaggerated and a false complaint has been given. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the husband of the first petitioner, who is the father of the petitioners 2 to 4 had encroached upon the property of the de-facto complainant and thereafter, the accused by fabrication of documents have taken up the property and he would object for grant of anticipatory bail.

5.Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration of 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, before the learned Judicial Magistrate Court No.I, Nagercoil, 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 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 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 respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-  
24/01/2023

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/02/2022  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SJI  
TO

1. The Judicial Magistrate Court No.I, Nagercoil.

2. Do-Through The Chief Judicial Magistrate,  
Kanniyakumari District at nagercoil .



3. The Inspector of Police,  
District Crime Branch,  
Kanyakumari District.

4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.P.T. RAMESH RAJA, ADVOCATE, SR. NO. 1044

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