



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 02/02/2023
PRESENT

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

CRL OP(MD) . No.2065 of 2023

1. P.Subramaniyan,

2. P.Sivakumar, ... Petitioners/A1 & A5

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Karur
(Crime No.9 of 2021).

... Respondent/Complainant

For Petitioners : M/s.MUTHUKAMATCHI.V,
Advocate.
For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.9 of 2021 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners/A1 and A5 , who were arrested and remanded to judicial custody on 05.01.2023 for the offence punishable under Sections 120(b), 420, 465 and 468 of IPC in Crime No.9 of 2021 in Crime No.9 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the defacto complainant and his brothers have filed civil suit in O.S. No.42 of 2012 against A2 and A4 and the matter settled and got decree in their favour in respect of S.F.No.534 of Aathur Village. By virtue of final decree dated 23.12.2014 the defacto complainant and his brothers are absolute owners of the property. At this juncture A1 created forged unregistered Will along with A2 to A4 and claiming title over the above said property and obtained exparte decree by playing fraud on the Court and based on the decree A1 executed power of attorney to A5, based on that they have sold the property to the third party. The further allegation is that A1 to A4 colluded and created



unregistered Will, based on which the present case can be registered.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. He would further submit that based on the Will the petitioners have filed a suit in O.S. No.423 of 2020 for declaration and permanent injunction on the file of the Sub Court, Manaparai and the court after trial had granted decree in favour of the petitioners. While so, based on the false complaint as if the petitioners fabricated documents, the petitioners were arrested. He would further submit that if at all the petitioners claim is false the defacto complainant ought to have filed an appeal against the judgement and decree whereas to circumvent the process he has given a criminal complaint to see to it that the petitioners were put under pressure. He would further submit that the petitioners are in judicial custody from 05.01.2023 and major part of the investigation is over and the entire case of the prosecution is borne out by documents, hence he seeks bail

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners had fabricated a Will and based on that he has with the aid of A2 to A5 had filed collusive suit and obtained collusive decree in his favour and later based on the court decree had given power of attorney to A5 who has sold the property belonging to the defacto complainant. He would further submit that enquiry reveals that the document on which suit claim is made is the fabricated document, hence he objected to grant bail to the petitioners.

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

6. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this court is inclined to grant bail to the petitioners, subject to the following conditions:

[a] Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Karur, and on further conditions that:

[b] 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.

[c] the petitioners shall report before the respondent police daily at 10.30 A.M., until further orders.



[d] the petitioners shall not commit any offences of nature.

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

[f] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Judicial 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

02/02/2023

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02/02/2023

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

AAV

TO

1 THE JUDICIAL MAGISTRATE NO.I, KARUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.

3 THE OFFICER INCHARGE, SUB JAIL, KARUR DISTRICT.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, KARUR

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.MUTHUKAMATCHI.V Advocate SR.No.1649

ORDER

IN

CRL OP(MD) No.2065 of 2023

Date :02/02/2023

SA/SSS/SAR. /02.02.2023/3P/7C