



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/02/2023

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PRESENT

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

CRL OP (MD). Nos.3095, 3096, 3097 and 3098 of 2023

V.Kalimuthu ... Petitioner/Accused No.3
in Crl.O.P.(MD)No.3095 of 2023

M.Anburaj Kishor ... Petitioner/Accused No.2
in Crl.O.P.(MD)No.3096 of 2023

A.Mohan Dass ... Petitioner/Accused No.6
in Crl.O.P.(MD)No.3097 of 2023

P.Ragupathi ... Petitioner/Accused No.4
in Crl.O.P.(MD)No.3098 of 2023

Vs

The Inspector of Police,
District Crime Branch,
Thoothukudi District.
Crime No.47 of 2022. ... Respondent/Complainant
in all petitions

For Petitioner (in Crl.O.P.(MD)No.3095 of 2023)
: M/s.Dhilipan Pandian.R.L.,
Advocate.

For Petitioner (in Crl.O.P.(MD)No.3096 of 2023)
: Mr.A.Ramesh
Senior Counsel
for M/s.Dhilipan Pandian.R.L.,
Advocate.

For Petitioner (in Crl.O.P.(MD)No.3097 of 2023)
: Mr.Prabhu Rajadurai,
for Mr.R.Shankar Ganesh
Advocate.



For Petitioner (in CrI.O.P.(MD)No.3098 of 2023)
: Mr.P.Samuel Gunasingh
Advocate.

For Respondent (in all petitions)
: Mr.A.Albert James,
Government Advocate (CrI.Side)

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

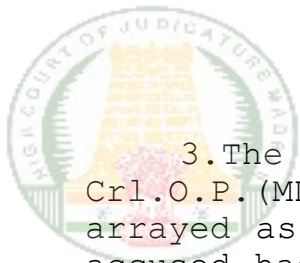
COMMON PRAYER :-

For Anticipatory Bail in Crime No.47 of 2022 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A2, A3, A4 & A6 who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 409, 420, 465, 468 and 120B of I.P.C., in Crime No.47 of 2022 respectively, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 04.05.2022, the de-facto complainant got a general power of attorney in Document No.2584 of 2022, which was executed by A1 in favour of A2, in which, A3 and A4, were attested as witnesses and A5 has drafted the alleged document, which was finally registered by A6, who is the Sub Registrar, Pudukottai, Thoothukudi. Later, the same was cancelled bilaterally vide Document No.2821 of 2022 dated 13.05.2022. The further allegation is that the village people of Vadakkusilukkan patti and Therkusilukanpatti have got patta in their name and they were paying taxes regularly. Whiles the first accused had stated that the entire extent of 2216.93 acres of land situated in both the villages came to his hand through sale deeds in Document Nos.15/1870 and 16/1870, which were executed by one Chidhabaram Chettiyar to Nellainayagam Pillai, further from a sale deed executed by Esakkiyadumperumal Pillai to Brahmanayagam Pillai vide Document No.2096/1873, further from a settlement deed in Document No.1064/1885 from Sivasubramanian to Brahmanayagam Pillai, further from a sale deed in favour of Brahmanayagam Pillai vide Document No.1106/1897, further, from registered sale deed in Document No.1108/1919 and 3261/1935 in favour of Nellainayagam Pillai, further, from a decree obtained from the civil Court in O.S.No.39/1893 and its appeal in A.S.No.44/1895, further from the Will executed by the mother of A1, dated 06.12.1990 namely, Meenatchiammal W/o. Sivasubramanian Pillai as the title delivery to the first accused was not relievable and also due to the fact, now the patta was standing in the name of the first accused. Hence, due to public agitation, the accused 1 and 2 had bilaterally cancelled the power deed and A6 was also suspended from his service. Hence,



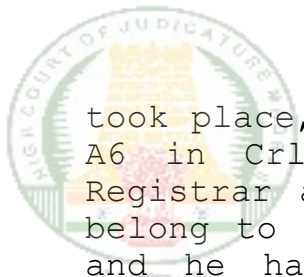
3.The learned Senior counsel appearing for the petitioner in Crl.O.P.(MD)No.3096 of 2023 would submit that the petitioner is arrayed as A2 in this case. He would further submit that the first accused had represented that his forefathers were the owners of the vast properties to an extent of 2000 acres in Silukuvaranpatti. Believing the same, the petitioner has agreed to stand as an agent for him to recover the properties, which were encroached by several persons. Other than having accepted the mission of recovering the first accused's properties, the petitioner has not committed any offence and after due enquiry, the petitioner came to know that there were litigations in the issue and thereby, on his own volition, the petitioner and the first accused had appeared before the authorities and the power of attorney, dated 04.05.2022 was cancelled by the first accused on 13.05.2022 within nine days. Subsequently, unfortunately, the first accused also died on 29.10.2022 and pursuant to the power of attorney, no transactions had been done by the petitioner. Other than believing the first accused, the petitioner has not committed any offence.

4.The learned counsel appearing for the petitioner in Crl.O.P. (MD)No.3095 of 2023 would submit that the petitioner is arrayed as A3, in this case and his role is that he is alleged to have signed as a witness in the cancellation deed.

5.The learned counsel appearing for the petitioner in Crl.O.P. (MD)No.3098 of 2023 would submit that the petitioner is arrayed as A4, in this case and the allegation against him, is that he had signed as a witness in the power of attorney. He would further submit that the entire case of the prosecution is borne out by registered documents and there is no possibility of the petitioner tampering the evidence and he is ready to appear before the respondent police for enquiry.

6.The learned counsel appearing for the petitioner in Crl.O.P. (MD)No.3097 of 2023 would submit that the petitioner is a Sub-Registrar and by believing the documents furnished by the first accused, had allowed them to register the power of attorney, other than that he has not committed any offence. He would further submit that the petitioner is not a beneficiary in the transaction. He would further submit that the enquiry has also been initiated by the department and the petitioner has been suspended and he is facing departmental enquiry. He would further submit that the entire case of the prosecution is borne out by documents.

7.The learned Government Advocate (Crl. side) would submit that the petitioners are arrayed as A2, A3, A4 and A6 and as far as the allegation against A2 is that, he had knowing well that the property does not belong to the first accused had agreed to stand as an Agent and they had attempted to grab the properties, which are now under the possession of villagers. However, even before any transaction



took place, the case came to be registered on 29.11.2022. As A6 in CrI.O.P(MD)No.3097 of 2022 is concerned, he is the Sub Registrar and he is knowing fully well that the properties do not belong to the accused, have allowed them to register the documents and he had colluded with the other accused. As far as A3 is concerned, he is alleged to have signed as a witness in the cancellation deed and as far as A4 is concerned, he had signed as a witness in the power of attorney and he would object for grant of anticipatory bail.

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

9.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:

10.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 ready, before the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District, 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 three weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

[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].



30.

[f] If the accused thereafter absconds, a fresh FI registered under Section 229A IPC.

sd/-
20/02/2023

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/03/2023

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

SJI

TO

1.THE JUDICIAL MAGISTRATE NO.IV, THOOTHUKUDI, THOOTHUKUDI DISTRICT,

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THOOTHUKUDI DISTRICT.

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

+2. CC to M/S.DHILIPAN PANDIAN.R.L. Advocate SR.No.9406,9407(F)

+1 CC TO M/S.R.SHANKAR GANESH, ADVOCATE SR NO.2623(I)

+1 CC TO M/S.S.SAMUEL GUNASINGH, ADVOCATE SR NO.9408(F)

ORDER
IN
CRL OP(MD). Nos.3095, 3096,
3097 and 3098 of 2023
Date :20/02/2023

RK/SAR-1(09/03/2023) 5P/9C