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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 09/02/2023

PRESENT

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

CRL OP(MD) . No.4097 of 2022

S.Ravi

... Petitioner/Accused No.3

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Crime No.5/2022,
Ramanathapuram District.

...Respondent/Complainant

Abdul Majeeth

... Petitioner/Intervene Petitioner
in Crl.MP(MD) No. 4186 of 2022

For Petitioner : M/s.Susi Kumar C, Advocate

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

For Intervenor : Mr.Balamuruga Pandi, Advocate

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

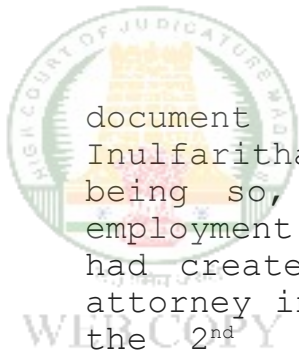
PRAYER :-

For Anticipatory Bail in Crime No.5/2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of
the respondent police for the alleged offence punishable under
Sections 468, 421, 420, 120(b) of I.P.C, in Crime No.5 of 2022, on
the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto
complainant is that he purchased 2 plots in Plot No.7 & 8 in Survey
No.326/4A, through registered sale deed in document No.823/ 1990,
dated 08.05.1990 from one Jahangir. The said Jahangir purchased
the mentioned plots from one Inulfaritha through registered



document in Doc.No.168/1987, dated 30.01.1987 and that Inulfaritha purchased the plots from one Muthukader. While that being so, due to his family situation, he went to abroad for employment. Further it is alleged in the FIR that the 1st accused had created a forged patta in her name and executed a power of attorney in the name of the 2nd accused on 29.06.2011. Subsequently the 2nd accused executed the property to the petitioner on 19.07.2021 and thereafter, the petitioner sold the property to other accused persons. Therefore, all the accused including the petitioner have conspired among them and created a forged document and sold his property to several persons and with the above allegations the FIR came to be registered. It is totally a false and baseless allegation. Hence, the complaint.

3. The learned Senior counsel for the petitioner submitted that the petitioner arrayed as A3 in this case. He has purchased the property from A1, through his power of attorney A2. Thereafter, he sold part of land to A4 and A5. He would submit that the petitioner is innocent and a bonafide purchaser. Thereafter, the defacto complainant interfered with the possession of the petitioner and litigations are pending between the petitioner and the defacto complainant before the Revenue Authorities and against the order passed by RDO, Ramanathapuram, dated 10.06.2022. The petitioner has also preferred a Writ Petition before this court in WP(MD)No.770 of 2022 and this court has also granted stay in favour of the petitioner. He would submit that the petitioner being a bonafide purchaser, holds a part of property in his name. However, without prejudice to his rights and contentions, the petitioner is ready and willing to file an affidavit of undertaking before the learned Magistrate that he will not further encumber the property till the disposal of the present case. The petitioner is ready to abide any condition imposed by this Court. The case of prosecution is also borne out by documents. Hence, prays to release them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) would submit that the accused persons colluded together and by fabrication of documents, sold the property to A4 and A5. He would further submit that civil litigations are pending between the parties. Hence, prays to dismiss the petition.

5.The learned counsel for the intervener would vehemently object to release the petitioner on anticipatory bail.

6.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7.Taking into consideration the facts and circumstances of the case and considering the nature of civil dispute between the parties and also considering the readiness and willingness of the petitioner to file an undertaking affidavit, this Court is inclined



to grant anticipatory bail to the petitioner, with conditions.

8. Accordingly, the petitioner shall file an undertaking affidavit before the concerned learned Judicial Magistrate that he will not encumber the properties pertaining to the following the sale deeds: 1) Doc.No.3578/2021, dated 29.06.2021, 2) Doc.No.4110/2021, dated 19.07.2021, 3) Doc.No.4111/2021, dated 19.07.2021 and 4) Doc.No.4131/2021, dated 20.07.2021, on the file of Vellipattinam, Ramanathapuram, without prejudice to his rights and contentions. However, it is made clear that the observations made in the petition are only for deciding the petition for anticipatory bail along. It will not have any bearing on the civil litigations pending between the parties.

9. On filing of such affidavit, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Special Court for Land Grabbing Cases, Ramanathapuram**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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 petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the petitioner 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 petitioner in accordance with law, as if the conditions have been imposed and the petitioner 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]** and;

[f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

09/02/2023

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/02/2023

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



Madurai - 625 023.



TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
SPECIAL COURT FOR LAND GRABBING CASES,
RAMANATHAPURAM.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.SUSI KUMAR C Advocate SR.No.2230(I)

ORDER
IN
CRL OP(MD) No.4097 of 2022
Date :09/02/2023

VA/BUC/SAR-3/21.02.2023/4P/6C