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CRL OP(MD).



23

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

Date : 20/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.5139 of 2023

Berchmans @ Perkmans,

... Petitioner/7th Accused

Vs

The Inspector of Police,
CCB, Tirunelveli City,
(Crime No.5 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Susikumar C,
Advocate.

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 5 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A7 who apprehends arrest at the hands of the respondent police for the offences punishable under sections 465,467,468 and 471 of IPC in Crime No. 5 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the first accused without having any valid title had executed power of attorney and based on the strength of power of attorney had sold the property to the first accused vide document dated 21.09.2012, hence the



case.

3. Heard both side and perused the materials available on record including the First Information Report.

4. It is seen that there are totally seven accused in this case and the petitioner herein is arrayed as A7. Even according to the case of prosecution the first accused had impersonated as defacto complainant had executed power of attorney in favour of A3 and A3 in turn had executed power of attorney in favour of A5. A5 executed sale deed in respect of the subject property in favour of the petitioner herein. Therefore the petitioner is an innocent purchaser and he has nothing to do with the alleged offence as committed by the other accused persons. Infact the petitioner is bonafide purchaser of the subject property and he has also lodged complaint as against the accused persons and the same is pending. Further the petitioner has also cancelled the sale sale in his favour by way of cancellation of sale deed. Taking into consideration of the facts and circumstances. this court is inclined to grant anticipatory bail to the petitioner , with certain conditions:

5. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Special Court for Land Grabbing cases, Tirunelveli 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 daily at 10.30 am., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with 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 were not imposed and the petitioner released on bail by the learned



Magistrate/Trial Court himself as laid down by the Hon'ble 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.

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sd/-
20/03/2023

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/ /2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES,
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
CCB, TIRUNELVELI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.SUSIKUMAR C Advocate SR.No.4670(I)

ORDER
IN
CRL OP(MD) No.5139 of 2023
Date :20/03/2023

VA/CG/SAR-3(24.03.2023)/3P/6C