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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/06/2023

PRESENT

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

CRL OP(MD) . No.9774 of 2023

1. Vareethaya

2. John Kennedy

3. Jegan

4. Suthir

5. Wilfred

... Petitioners/Accused Nos 1 to 5

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Kanyakumari District.
Cr.No.31/2023.

... Respondent/Complainant

For Petitioner : M/s.Ramakrishna Dass.N.S.,
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For Intervenor : Mr.Ka.Ramakrishnan, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.31/2023 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 120B, 465 and 420 of I.P.C., in Crime No.31 of 2023 on the file of the respondent police, seeks anticipatory bail.

<https://www.hc.madras.gov.in/>



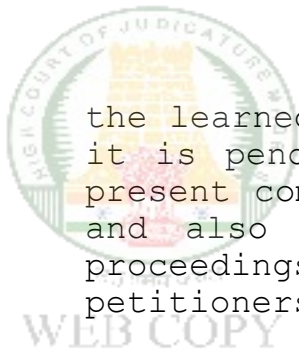
2.The case of the prosecution is that the first petitioner is the brother of the de-facto complainant's wife. Due to previous enmity between the de-facto complainant and the first petitioner, the petitioners created unregistered sale deed for Rs.24,00,000/- in the name of the de-facto complainant, his wife, son and daughter and by utilizing the same, the first petitioner got the tax receipt in his name. Hence, the case.

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

4.It is seen that the petitioners are arrayed as A1 to A5. The first petitioner is none other the brother-in-law of the de-facto complainant. The first petitioner had lend money to the tune of Rs.50 lakhs as loan to the de-facto complainant for his son's marriage on surrendering of original document in respect of the subject property in O.S.No.77 of 2022 on the file of the learned Principal District Judge, Kanyakumari at Nagercoil. Later, the first petitioner came to understand that the said property was originally sold out by the de-facto complainant in favour of the third party. When it was questioned by the first petitioner, the de-facto complainant had executed unregistered sale deed in respect of some other house property owned by Bishop in favour of the first petitioner. Thereafter, the first petitioner assessed house tax in his favour in respect of the said house. In fact, the first petitioner also filed a suit for specific performance in respect of the earlier property, which were given by the de-facto complainant in O.S.No.77 of 2022 and it is pending. Now the de-facto complainant lodged a complaint alleging that his signature was forged by the petitioners and sale deed was fabricated in respect of the house belonging to Bishop in favour of the first petitioner and also assessed the said house for property tax in his favour.

5.The learned counsel for the de-facto complainant would submit that the petitioners already ransacked the entire house and attacked them. In pursuant to the said occurrence, FIR has been registered in Crime No.4 of 2023 as against the first petitioner and two others and it is pending for investigation. Thereafter, the first petitioner forged a signature of the de-facto complainant and created unregistered sale deed in his favour in respect of the property, which is owned by Bishop and therefore, the custodial interrogation of the petitioners are very much required in this case and he vehemently opposed for grant of anticipatory bail.

6.The learned counsel for the petitioners would submit that the so called property which was executed by the de-facto complainant by unregistered sale deed is not salable one, since it belongs to Bishop and as such, the de-facto complainant conveniently executed unregistered sale deed. That apart, the first petitioner also filed



the learned Principal District Judge, Kanniyakumari at Nage: and it is pending as against the de-facto complainant. Therefore, the present complaint is nothing but to escape from the clutches of law and also compelled the first petitioner to withdraw the other proceedings. Therefore, the custodial interrogation of the petitioners do not require in this case.

7. 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:

8. 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.I, Nagercoil, Kanyakumari 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

08/06/2023

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

sj i

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TO

1. THE JUDICIAL MAGISTRATE NO.I,
NAGERCOIL, KANYAKUMARI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

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

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

ORDER

IN

CRL OP(MD) No.9774 of 2023

Date :08/06/2023

RK/BUC/SAR- (15/06/2023) 4P/5C