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CRL OP(MD)N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.06.2023

PRESENT

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

CRL OP(MD)No.10557 of 2023

1.Jayaprakash.M

2.Sentamil Selvan

... Petitioners/Accused Nos.2to3

Vs

State Rep.by
The Inspector of Police,
District Crime Branch,
Thanjavur District.
(Crime No.14 of 2023)

... Respondent/Complainant

For Petitioners : Mr.D.R.Murugesan, Advocate

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

For Intervenor : Mr.Prakadeeshkumar, Advocate

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

PRAYER :-

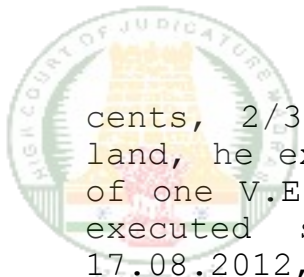
For Anticipatory Bail in Crime No.14 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 406, 465, 467, 468, 420 r/w 34 IPC in Crime No.14 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is having ancestral lands in Nadiyammalpuram in S.Nos.70/19, 74/16, 74/15, 74/10, 74/19 and 167/2 admeasuring total extent of 4 acre 5.6

<https://www.hc.m.gov.in/Bids4>



cents, 2/3 cents. Due to civil dispute with regard to land, he executed general power of attorney on 27.01.2011 in favour of one V.E.Siva. Taking advantage of the same, the said V.E.Siva, executed sale deed in favour of the petitioners herein on 17.08.2012, in order to cheat the defacto complainant. Hence, the case.

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3.The learned counsel appearing for the petitioners would submit that the petitioners herein are subsequent purchasers and they purchased the property from the first accused. Now, the first petitioner was arrested and remanded to the judicial custody. A1 is the power of attorney and after receiving of sale consideration, they purchased the property. In fact, the property was valued Rs.2 Crores and paid stamp fees only Rs.1,12,000/- and remaining due amount was reduced and paid Rs.6,25,080/- and received sale deed.

4.The learned counsel appearing for the defacto complainant would submit that the accused persons impersonated and executed sale deed in their favour. A1 given power, that too, he is not entitled to sale without any consent. A1 failed to pay any sale consideration so far. Without knowledge of the defacto complainant, A1 executed sale deed in favour of A1 and A3. Therefore, custodial interrogation of the petitioners is very much required in this case.

5.Heard both sides and perused the materials available in the record.

6.It is seen that there are totally three accused in this case, in which, the petitioners herein are arrayed as A2 & A3. The petitioners herein are purchasers of the property from A1. A1 is the power of attorney of the defacto complainant. The first petitioner is now arrested and remanded to judicial custody. Hence, this petition is dismissed as infructuous as against the first petitioner.

7.Considering the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the second petitioner with certain conditions:

8.Accordingly, the second 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, Pattukkottai on condition that the second 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 2nd 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 2nd petitioner shall report before the respondent Police, daily at 10.30 A.M., for a period of two weeks and thereafter, as and when required for interrogation;

[c] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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].

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

sd/-

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

GNS

TO

1.THE JUDICIAL MAGISTRATE,
PATTUKKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.

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



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23

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

ORDER

IN

CRL OP (MD) No.10557 of 2023

Date :15/06/2023

RK/VR/SAR- (23/06/2023) 4P/5C