



WEB COPY

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

Dated: 21/07/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP(MD)No.12425 of 2023

1.Kathiravan

2.Senthil @ Senthilkumaran

: Petitioners/ A2 and A8

Vs.

State represented by
The Inspector of Police,
DCB Police Station,
Sivagangai.
(Crime No.3 of 2022)

: Respondent/ Complainant

For Petitioners : Mr.R.M.Arun Swaminathan
for Mr.N.Jeyaram Sidharth

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

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

PRAYER:-For Anticipatory Bail in Crime No.3 of 2022 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioners, who are arrayed A2 and A8 apprehend arrest at the hands of the respondent police for the offences punishable under sections 120(b), 406, 419, 420, 468 and 471 IPC, in Crime No.3 of 2022 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution in brief:-

WEB COPY

The de-facto complainant lodged a complaint stating that his father namely Chinniah was owning properties in Survey No.276/4 measuring about 73 cents. Out of the above said 73 cents, by impersonation, 37 cents were sold to A1-Ambalam by A2-Kathiravan. At that time, the above said de-facto complainant's Voter Card was also forged. His father name is Ambalam @ Subban Ambalam. A1 father's name is Devan Ambalam. Taking advantage of the similarity of the name, the above said impersonation has been committed and the sale was also effected. After the above said sale, subsequent sale has also been effected by the co-accused. For the above said impersonation, A9 and A10 were colluding. Similarly, another sale was also effected by A1 in favour of A8 for 36 cents. On coming to know the above said false sale deed, the above said Ambalam cancelled the sale deed. Without properly verifying the identity of the persons, A9 and A10 helped A1 and A2 to create the document, which was registered registered.

3.Pending investigation, the petitioners filed anticipatory application twice. On both times, the applications came to be dismissed by this court. This is the third application seeking the very same relief.

4.The earlier applications were dismissed, since the interim custody of the petitioners is very much required. This petition has been filed stating that some important aspect was not brought to the notice of this court in the earlier occasion.



WEB COPY

5. The petitioners were permitted to argue the matter and relevant documents were also produced, so also the CD file. If we look into 10(1) Adnagal, it stands in the name of Subbanambalam, s/o. Udaiyar Ambalam. It has been submitted by the petitioners that the property in Survey No.276/14 is standing in the name of A1 and others. As noted above, the de-facto complainant owns property adjoining in Survey No.277. Over the very same occurrence, the de-facto complainant's brother also lodged a complaint, which was also registered in Crime No.10 of 2021. In that case, the petitioners enlarged on bail. The purchaser namely A3 filed a suit in O.S No.139 of 2021 against the de-facto complainant and Thirunavukarasu seeking declaration of title over the property and it is also pending before the District Munsif Court, Sivagangai. He is also referring to the FIR in Crime No.10 of 2021, which was filed by the de-facto complainant's brother namely Thirunavukarasu, mentioning the very same facts. In the above said complaint, no details about the present complaint. Wherein, he has stated that the property comprised in Survey No.276/4 measuring about 02.17 acres belongs to Ambalam @ Subban Ambalam, Kalimuthu and Chinniah, who are the sons of Udaiyar. His father namely Chinniah expired, on 09/09/2009. Similarly, his father's brother namely Kalimuthu also expired in 2008. Because of the non availability of the owner and legal assistance, the above said impersonation has been committed by A1. According to him, his father's name Chinniah has been impersonated by creating false records. Similarly, by creating false



WEB COPY

records in the name of Kalimuthu, sale has been effected. So, the above said factual narration is completely contra to the present complaint. In the complaint, it has been stated by the de-facto complainant that the above said property belongs to his grand father Amabalam @ Subban Ambalam. The above said grand father namely Ambalam @ Subban Ambalam and his father's brother Kalimuthu alone are the legal heirs. No other legal heirs are available. But whereas, as mentioned above, in Crime No.10 of 2021, Thirunavukarasu has stated that the property originally belongs to Udaiyar's sons namely Ambalam @ Subban Ambalam, Kalimuthu, and Chinniah.

6. So the question, which arises for consideration is to whom the above said property belongs, whether the de-facto complainant's grand father's name is Udaiyar or Ambalam @ Subban Ambalam, who is the elder brother of the complainant's father Chinnaiya. Similarly, in the above said complaint, the availability of the female is not mentioned. So, there is total confusion in this issue.

7. To whom, the property belongs is the only issue, which arises for consideration. It can be brought to light only after thorough investigation. Similarly, the title issue will be decided in the above said pending suit. Who is the original Ambalam got to be thoroughly investigated. In the above said sale deed, he has mentioned his brothers name as Kalimuthu and Chinniah. But here, according to the de-facto complainant, he is the son of the above said Chinniah. So, the sale deed that was executed by A1 in favour of A2 has also to be thoroughly investigated.



8.No doubt that there are some sort of confusion with regard to the original owner Ambalam. Unless the previous revenue records and title documents are collected, there is no possibility to find out the truth. But at the same time, one thing must also be mentioned here. A1 also gave contradictory facts in the sale deed. In one of the sale deed, dated 16/11/2011, while executing the sale deed in favour of one Murugan, he has stated that his father name is Devan Ambalam and the grand father's name is Udaiyar Ambalam. He was working as an employee in TNEB. He has also produced the ID card. He has stated that the property belongs to his father and his brothers. The property was divided among three brothers. Completely contradictory averments mentioned in the sale deed, dated 10/12/2014. The first petitioner appears to have not a genuine person. But at the same time, as mentioned above, great confusion occurs this matter, so a thorough investigation is required.

9.Considering the above facts and also considering the oldness of the matter, anticipatory bail is granted to the petitioners on condition that they must report before the respondent police. During the course of investigation, if any necessity arises for interrogation, the respondent police is at liberty to move the concerned trial court for appropriate orders.

10.In view of the above, this court is inclined **to grant anticipatory bail** to the

petitioners with certain conditions. Accordingly, the petitioners are ordered to be



WEB COPY

released on bail in the event of arrest or on their appearance before the learned *Judicial Magistrate No.II, Sivagangai* and on each of them executing 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 learned Judicial Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.30 am until further orders. The petitioners shall comply with the condition stipulated under [Section 438](#) Cr.P.C. scrupulously.

sd/-
21/07/2023

/ TRUE COPY /

/08/2023

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

er

TO

- 1 THE JUDICIAL MAGISTRATE NO.II
SIVAGANGAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
SIVAGANGAI DISTRICT.



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

+1 CC to M/s.N.JEYARAM SIDDHARTH, Advocate (SR-11219[I] dated
25/07/2023)

ORDER
IN
CRL OP(MD) No.12425 of 2023
Date :21/07/2023

SS/MMS/02/08/2023/7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023