



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.03.2023

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PRESENT

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

CRL OP(MD) .Nos.14360, 4869, 4935, 4944, 4942, 13977,
14839 and 4833 of 2022

Xavier ... Petitioner/Accused Rank Not Known
in Crl.O.P(MD)No.14360/2022

1 Lakshman Kumar
2 Balamurugan
3 Nathiya
4 D.Kalyani ... Petitioners/Accused Nos.15, 18(1), 18(2), 19
in Crl.O.P(MD)No.4869/2022

S.P.Kasinathan ... Petitioner/12th Accused
in Crl.O.P(MD)No.4935/2022

Ramalingam ... Petitioners/Accused No.3
in Crl.O.P(MD)No.4944/2022

Sundar ... Petitioner/Accused No.7
in Crl.O.P(MD)No.4942/2022

1 Sukumar
2 Kalaivani ... Petitioners/8th and 9th Accused
in Crl.O.P(MD)No.13977/2022

M.Kanagarani ... Petitioner/Accused No.11
in Crl.O.P(MD)No.14839/2022

M.Thiraviyapandian ... Petitioner/Accused No.4
in Crl.O.P(MD)No.4833/2022

Vs.

State represented by
The Inspector of Police,
District Crime Branch PS,
Thanjavur,
Thanjavur District.
(Crime No.4 of 2022)

... Respondent/Complainant
in all petitions



For Petitioner
(in CrI.O.P (MD) No.14360/22)

: M/s.A.S.Rajeshwari, Advocate

For Petitioners
(in CrI.O.P (MD) No.4869/22)

: Mr.R.Anandharaj, Advocate

For Petitioner
(in CrI.O.P (MD) No.4935/22)

: Mr.C.Mahadevan, Advocate

For Petitioner
(in CrI.O.P (MD) No.4944/22)

: Mr.R.Anandharaj, Advocate

For Petitioner
(in CrI.O.P (MD) No.4942/22)

: Mr.D.Balamurugapandi, Advocate

For Petitioners
(in CrI.O.P (MD) No.13977/22)

: Mr.P.Arun Jayatram, Advocate

For Petitioner
(in CrI.O.P (MD) No.14839/22)

: Mr.R.Anandharaj, Advocate

For Petitioner
(in CrI.O.P (MD) No.4833/22)

: Mr.D.Balamurugapandi, Advocate

For Respondent
(in All Cases)

: Mr.B.Thanga Aravindh
Government Advocate (CrI.side)

For Intervenor
(in All Cases)

: Mr.B.Saravanan, Senior Counsel
for Mr.D.Kirubakaran, Advocate

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

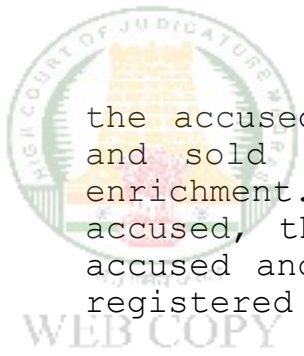
COMMON PRAYER :-

For an Anticipatory Bail in Crime No.4 of 2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners, who are the Accused, apprehending arrest at the hands of the respondent police for the offence punishable under Sections 465, 468, 471, 420 and 120(B) of IPC, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the property comprised in various survey fields viz, S.Nos.3042, 3043, 3044, 3045, 3047, 3048 and 3049, wherein, there are 11 house sites, situated at Neelagiri South Thottam, Lakshathopu Village, Thanjavur Taluk and District have been devolved on him by way of Will executed in his favour vide document No.162/2014, dated 12.11.2014 by one Vijayalakshmi and thus, he has become the absolute owner of the said property and further alleged in the First Information Report that



the accused numbering 1 to 19 alleged to have fabricated documents and sold in favour of various third parties for their illegal enrichment. On the basis of confession statement made by some accused, the name of the the petitioner has been implicated as an accused and thus, for the above false allegations, a case has been registered as against the petitioner.

3.The learned counsel for the defacto complainant submitted that the property comprised in S.Nos.3042, 3043, 3044, 3045, 3047, 3048, 3049 and old Survey No.1, situated at Ward No.1, Neelagiri South Thottam, Thanjavur Taluk, Thanjavur, originally belonged to one Kalyanasundaram, who was the grandfather of the defacto complainant and he settled the property in favour of his son Sabapathy Pillai and the said Sabapathy Pillai executed a sale deed, dated 21.12.1959 in favour of his daughter S.Vijayalakshmi. Subsequently, on 12.11.2014, the said Vijayalakshmi executed a Will in favour of the defacto complainant. Thereafter, the defacto complainant has become the absolute owner of the property. Thereafter, the defacto complainant came to understand that the property was transferred in favour of one Varadharajan. Further it is revealed that one Palavesamuthu has given a settlement deed in favour of Varadharajan, as if, he is a grandson of Palavesamuthu. In turn, the said Varadharajan sold out the property to various persons on the strength of power of attorney, dated 30.01.2018, which was registered vide document No.559/2018. He further submitted that the said Palavesamuthu did not have title over the property and he fabricated the sale deed of the year 1965, which was allegedly registered vide document No.390/1965. On verification, it is found that the Sub Registrar, Sowcarpet SRO, Chennai, invented that the said document was registered by one Ramanujulu. Therefore, the said Palavesamuthu is a fictitious person and no sale deed was registered in favour of Palavesamuthu. A4/Dhiraviya Pandiyan is a power holder is a master brain and he fabricated the sale deed, as if, the sale deed was executed in favour of Palavesamuthu and subsequently, he gave a settlement deed in favour of the second accused namely Varadharajan, as if, the said Palavesamtuhu had executed a settlement deed in favour of grandson. In turn, the said Varadharajan had executed a power of attorney in favour of A4/Dhiraviya Pandiyan. On the strength of power of attorney, A4 sold out the house plots to the various persons. In fact, the sale deeds were also challenged before the District Registrar, Thanjavur and the same was dismissed. Aggrieved by the same, the defacto complainant filed a Writ Petition before this Court and this Court disposed the said petition with direction to the District Registrar, Thanjavur to conduct enquiry in this case. The District Registrar, Thanjavur by order dated 28.06.2019 directed the defacto complainant to file a petition before the jurisdictional Magistrate Court concerned. Accordingly, the defacto complainant filed a petition and the same is pending.

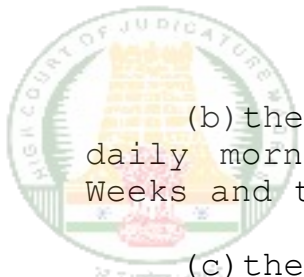


4.The learned counsel for the petitioners would submit that they are all subsequent purchasers. A3/Ramalingam has given a registered general power of attorney to A4/Thiraviapandian vide document No.559/18, dated 31.08.2018. Thereafter, through power of attorney, all the other petitioners purchased their respective plots for value sale consideration. Further the said Palavesamuthu/A1 applied for transfer of patta before the Deputy Zonal Tahsildar, Thanjavur by order, dated 23.03.2018, to issue joint patta in the name of Palavesamuthu, if at all alleged by the defacto complainant that Accused No.4 fabricated the sale deed in the year 1965, he could not have been obtained patta in his favour. After registration of sale deed in their favour them, they were granted patta and they are dealing with the property.

5.On perusal of documents also revealed that on the strength of sale deed executed in the year 1965, the said Palavesamuthu, who is arrayed as first accused executed a sale deed in favour of his grandson namely A4. Who in turn, executed the power of attorney dated 31.01.2018 in favour of A4, which was registered vide document No.559/18. The power holder also produced life certificate of Varatharajan. One of the purchaser also produced life certificate of Ramanujulu, who executed a power in favour of A4. That apart, the defacto complainant challenged the sale deeds executed in favour of the purchasers before District Registrar, Thanjavur and the same was dismissed. Aggrieved by the same, the defacto complainant filed a Writ Petition before this Court. This Court disposed of the said writ petition with a direction to file an appeal before the Appellate Court Authority. Accordingly, the defacto complainant filed an appeal and the same is pending. Since all the documents already seized by the Investigation Officer, custodial interrogation of the petitioners does not require. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate (Special Court for Land Grabbing Cases), Thanjavur, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 daily morning at 10.30 a.m., without fail, for a period of Four Weeks and thereafter as on 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]; and;

(f) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

15/03/2023

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/04/2023

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

vsd

TO

1 THE JUDICIAL MAGISTRATE (SPECIAL COURT FOR LAND GRABBING CASES),
THANJAVUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

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

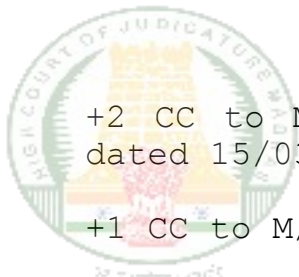
4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.S.RAJESHWARI, Advocate (SR-4244[I] dated
15/03/2023)

+3 CC to M/s.R.ANANDHARAJ, Advocate (SR-4288[I], SR-4290[I],
SR-4289[I] dated 15/03/2023)

+1 CC to M/s.C.MAHADEVAN, Advocate (SR-4329[I] dated 16/03/2023)

<https://www.mhc.tn.gov.in/judis>



+2 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-4258[I], SR-4259[I],
dated 15/03/2023)

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-4245[I] dated 15/03/2023)

+1 CC to M/S.D.KIRUBAKARAN, Advocate (SR-4492[I] dated 17/03/2023)

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ORDER IN
CRL OP(MD).Nos.14360, 4869,
4935, 4944, 4942, 13977, 14839
and 4833 of 2022
Date :15/03/2023

RS/CG/SAR-2 (03.04.2023) 6P 14C