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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 14/07/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.12382 and 12241 of 2023

(1)Crl.OP(MD)No.12382 of 2023:-

1.A.Manisubramaniam
2.M.S.Arumuganathan @ Arumugarajan
3.M.S.Meenatchi Sundaram
4.M.S.Manthiramoorthi
5.Marikani : Petitioners/A1 to A4 & A8

Vs.

State rep. by
The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
(Crime No.127 of 2023) : Respondent/Complainant

For Petitioners : Mr.R.Murugappan
For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)
For Intervenor : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

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

PRAYER:- For Anticipatory Bail in Crime No.127 of
2023 on the file of the Respondent Police.

**(2) Cr1.OP(MD)No.12241 of 2023:**

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1.V.Manoharan
2.M.Saravanan
3.V.Muthaiah Pandian : Petitioners/A5 to A7

Vs.

State rep. by
The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar district.
(Crime No.127 of 2023) : Respondent/Complainant

For Petitioners : Mr.R.Murugappan
For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)
For Intervenor : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

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

PRAYER:-For Anticipatory Bail in Crime No.127 of
2023 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioners, who apprehend arrest at the hands
of the respondent police for the offences punishable
under sections 120(b), 447, 465, 468 and 471 IPC, in



Crime No.127 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant version, is that the property in TS No.1/2 measuring about 63.4 cents situated at Allampatti, Virudhunagar District, originally belongs to one Jappan Cotton Trading Company. It comprised in pymash No.197/1 measuring about 80 cents and that property was taken over as enemy property by the Government of India. Later, that property was sold to East India Corporation, on 22/10/1952. Out of the above said 80 cents, 7254 square feet has been acquired for Railway Project. The remaining property was sold by the East India Corporation to the de-facto complainant wife's mother, on 20/09/1971. She was in possession of the property and died in 1992. His wife namely Ponnuthai was the only legal-heir of the deceased. Patta was also transferred in her name, on 10/02/2017. In order to cheat the de-facto complainant's wife, they created a fraudulent document in the form of settlement deed and sale agreement. They trespassed into the property and removed the fence, on 05/01/2023. A suit in O.S No.19 of 2015 was filed by his wife before the



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District Munsif Court, Virudhu Nagar. Pending the above said suit, on 02/12/2022, they executed a power of attorney in favour of one Marikani. On 05/01/2023, at about 09.30 pm, the accused persons trespassed into the property, damaged the stones and fencing. On the basis of the above said occurrence, a case in Crime No.127 of 2023 was registered for the offences under sections 129(b), 447, 468 and 471 IPC.

3. Seeking anticipatory bail, pending investigation, these two petitions have been filed by the petitioners.

4. The de-facto complainant has also filed intervening petitions and represented by a Senior counsel.

5. Heard both sides.

6. The admitted fact is that a suit in O.S No.15 of 2019 is pending before the District Munsif Court, Virudhunagar and it is in the part-heard stage. Pending the above said suit, this complaint has been filed as if the accused persons created fraudulent documents, trespassed into the property, caused damage, etc.



7.The learned Senior counsel appearing for the de-facto complainant would draw the attention of this court to various documents to sustain his argument that patta, which according to the accused, was issued in the name of the accused persons is a fake one. He would refer to the patta issued in 80-83, firstly for the above said property, which is standing in the name of Seethalakshmiammal, w/o.Ponnu Naicker, who is stated to be the mother of the de-facto complainant's wife and another portion standing in the name of Indian Railways. But the Town Survey Register has been created by the petitioners as if the property was sold to Mani Subramanian by East India Corporation. The Sub-Inspector of Survey signature has been forged, which evident, according to him, from the Right to Information Act that was received by the de-facto complainant. So, according to him, on the date of the above said document, one Aravindhnan was working. But we find one Arumugam was the Certification Officer. So according to him, *prima facie* shows that forgery has been committed by the accused. The patta proceedings has also been taken and as per the direction of the Revenue authorities, she has also filed a suit in O.S No.15 of 2019. Even though, interim



injunction petition, that was filed by the de-facto complainant's wife was dismissed, by order in CrI.OP(MD)No.1052 of 2020, dated 26/02/2021, it will indicate the order of *status quo* to be maintained by the parties. But against the above said order, the accused trespassed into the property and caused damage to the fence. According to him, these petitioners are not entitled for any discretionary relief.

8.Per contra, the learned counsel appearing for the petitioners would submit that since all the documents, which are relied on by the de-facto complainant in this petition are also under consideration by the competent civil court. Initiation of criminal proceedings itself, after the dismissal of the interim injunction application will show the conduct of the de-facto complainant in giving criminal colour to the civil issue. He is also referring to the order passed in the interim injunction application and the documents relied by the de-facto complainant, CMA preferred against the above said dismissal order. So, according to him, all along, the petitioners are in possession. So, there is no question of trespass and creation of the false records.



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9. In the light of the above said rival submission, what emerges from the above said argument is that the issue involved is title dispute. No doubt, which shows that the patta standing in the name of Subramani is *per se* a created one, it is subjected to prove before the civil court. Sine civil court has seized the matter, this court refrains from making any observation with regard to the genuineness of the documents. Any observation if made by this court in this petition will have serious impact upon the trial process. It must also cause prejudice to the parties also. So, I am not expressing any opinion on the genuineness or otherwise of the documents now relied by both sides.

10. So without going into the other aspects, I am of considered view that these petitions can be allowed in view of the fact that only after the dismissal of the interim injunction application, the present complaint has been given, leaving the parties to work out their remedy in the pending suit itself.

11. In view of the above facts and circumstances of this case, this court is inclined **to grant anticipatory**



bail to the petitioners with certain conditions.

Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.1, Virudhunagar 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 10.00 a.m. until further orders. The petitioners shall comply with the condition stipulated under [Section 438](#) Cr.P.C. scrupulously.

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Index:Yes/No
Internet:Yes/No
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14/07/2023



WEB COPY To,

- 1.The Judicial Magistrate No.1,
Virudhunagar.
- 2.The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar district.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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