



CRL OP(MD). No.12514 of 2023

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

Date : 16/08/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

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Ujin Joseph Xavier

... Petitioner / Accused No.1

Vs

The State represented by
The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
(Crime No.159 of 2023.)

... Respondent / Complainant

For Petitioner : Mr.K.Neethimohan, Advocate
for M/s.Veeraragavan.S., Advocate.

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl.Side)

For Intervenor : Mr.N.Mohan, Advocate.

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

PRAYER :-

For Anticipatory Bail in Crime No.159 of 2023 on the file of the respondent police.



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ORDER: The Court made the following order :-

The petitioner/Accused No.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120B, 468, 471, 341, 294(b), 506(i) of IPC, in Crime No.159 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that the property situated in S.No.416/2 measuring about 67 cents, originally belonged to one S.B.Subbiah Naidu. The accused namely Ujin Joseph Xavier and one Paramasivam alleged to have forged the patta. On the basis of the above said forged patta, they sold the property to one Santhi Nivethitha and Ganesh Kumar. Based upon the above said transfer, patta were also transferred in their names. When the above said fake document came to the notice the Revenue Divisional Officer, Kodaikanal, he cancelled the above said pattas. Even after the cancellation of the patta, they tried to encumber the property. On 07.02.2023 at about 08.00 a.m. when the defacto complainant went to the shop, he was intercepted, abused, and insulted. They were also criminally intimidated. Based upon the above said occurrence complaint has been lodged. Seeking anticipatory bail this petition has been filed by the accused

Number 1 on second occasion.

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



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3. First application filed by him, came to be dismissed on merits by this Court, by the order, dated 22.06.2023 with the following observation:

“5. The learned counsel for the intervenor would submit that originally the property belongs to the grand father of the petitioner and the petitioner herein is the master mind behind the entire crime. He created fabricated and false documents as if he had purchased the property in the year 1959 and subsequently by way of unregistered sale deed in the year 1991 he had executed sale deed in favour of A4 and A5. Now the petitioner is aged about 64 years and even assuming that the petitioner had purchased the property he was only one year old at the time of purchasing the property in the year 1959, hence he objected to grant anticipatory bail to the petitioner”

4. Therefore, this petition has been filed on the ground that now patta has been granted in his favour by the order dated 23.01.2011. He has also produced the above said order. The case of the defacto complainant is that the property originally belongs to his grant father by name Subbiah Naidu. These petitioners alleged to have created fake revenue records. Based upon them, they sold the property to the



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co-accused.

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5.It is the contention on the part of the petitioner that by the sale deed dated 11.07.1959, which is a un-registered document, it was purchased by one Maria Gabrian from the above said Subbiah Naidu. Reading of the above said document shows that the land was assigned in favour of the above said S.B.Subbiah Naidu. Later he developed the land, but could not continue the same. So the above said possession was handed over to Maria Gabrial. He has also stated that he will not make any objection for transferring the patta in his name. The property is mentioned as S.No.416/2 measuring about 50 cents. Later legal heir of Maria Gabrial namely Ujin Joseph Xavier, who is the first accused herein and one Kanahadass and Paramasivan given joint petition seeking transfer of patta in their name. The Land Commissioner considered the purchase, possession and the present nature of the property, passing order granting Ryotwari patta in the name of the above said three persons. This patta according to the defacto complainant is a fake one.

6.The defacto complainant would submit that the present property still exists as pathway. But, by suppressing the above said facts, the patta has been obtained. Reading of the order does not indicate that it is a fake one. Perusal of CD file also indicates the communication sent by the Inspector of Police, who is the Investigating Officer, to Tahsildar, Kodaikanal, seeking some clarification and documents. Now,



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the reply is awaited. Whether there is any fabrication of the Government records, is matter for consideration by the Investigating Officer. Even though earlier application has been dismissed on the ground that the first petitioner alleged to have purchased the property, when he was one year old, is factually incorrect. Because, only the father of the first petitioner has purchased the property in his own name. Subsequent to the death of Maria Gabrial, subsequent sale and encumbrance and patta transfer proceedings has been initiated.

7.In view of the above said, this Court is inclined to grant anticipatory bail on condition that during the course of investigation, if it is found that the above said proceedings of the Assistant Commissioner of Land Revenue dated 23.12.2011 is found to fake one, then the respondent is at liberty to move jurisdictional Magistrate for subjecting this petitioner to custodial interrogation. This order will not stand in the way for taking the above said proceedings.

8.Therefore, with the above said condition & liberty, this petition is allowed and petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.II, Kodaikanal, on condition that the 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 learned Magistrate concerned and the petitioner shall appear before the respondent



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police daily at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

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9. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
16/08/2023

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18/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TM

To

1.The Judicial Magistrate No.II,
Kodaikanal.

2.Do through the Chief Judicial Magistrate,
Dindigul District.

3.The Inspector of Police,
Kodaikanal Police Station,
Dindigul.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.VEEARAGAVAN, Advocate (SR-12331[I] dated 16/08/2023)



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ORDER

IN

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Date :16/08/2023

ED/ /SAR- (18/08/2023) 7P / 6C

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