



Crl.OP(MD)No.12813 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 27/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.12813 of 2023

Nepoleon @ Napoleon John Britto

: Petitioner/ Accused No.4

Vs.

The State rep. by
The Inspector of Police,
District Crime Branch,
Thoothukudi District.
(Crime No.26 of 2016)

: 1st Respondent/ Complainant

2.Selvaraj P Rayer
(R2 suo motu impleaded, as per the order,
dated 14/07/2023)

: 2nd Respondent/ De-facto Complainant

For Petitioner : Mr.R.Anand, Advocate

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

For 2nd Respondent : Mr.A.Robinson, Advocate

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

PRAYER:-For Anticipatory Bail in Crime No.26 of 2016 on the file of the Respondent Police.



Crl.OP(MD)No.12813 of 2023

ORDER: The Court made the following order:-

The petitioner, who is arrayed as A4 apprehends arrest at the hands of the respondent police for the offences punishable under sections 419, 465, 468, 471 and 420 IPC, in Crime No.26 of 2016 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that the property mentioned in the subject matter of the complaint originally belongs to one S.Perinbaraj, Inbaraj, Devarj and Varadharaj. He purchased the property from the above said persons, on 29/05/1981. Right from the date of purchase, he was in possession and enjoyment of the same. Revenue records and Municipal records were also changed. Now J.Lily is the mother-in-law residing in that property. Later, it came to know that the above said J.Lily paid house tax in her name. When objection was made, later assessment was also transferred in his name. Later, he came to know that by false representation that she is the power of attorney, executed a sale deed in her son's name, on 26/03/2015. On further enquiry, it was also revealed that a fake Power of Attorney Deed was registered, on 29/03/1982 before the Joint Registrar No.2, Tuticorin. For the above said illegal activity, one Dhanapal, Dominic, and Sebastian were also colluding. On the date of the above said Power of Attorney, the

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



Crl.OP(MD)No.12813 of 2023

de-facto complainant was not present in India, but in Abu Dhabi. But still the property is in possession. He lodged a complaint with the police, but there was no proper action. On the basis of the above said occurrence, a case in Crime No.26 of 2016 was registered for the offences stated above.

3. Seeking anticipatory bail, A4 has filed this petitioner, who is stated to be not involved in the above said Crime.

4. For exploring the possibility of settlement, the de-facto complainant was summoned and also served and he represented through Advocate. Pending investigation process, it was referred to Mediation and Conciliation Centre, attached to this Bench.

5. There was some sort of agreement between the parties out of the mediation process. A joint compromise memo is also filed, of course without the signature of the parties.

6. The learned counsel appearing for the petitioner would submit that as per the agreement reached between the parties, the petitioner will secure the prospective buyer and share the sale proceeds equally. On the basis of the above said sale and receiving of money, the de-facto complainant has agreed to withdraw the suit filed by him before the Additional District Judge, Tuticorin and Sub Court, Tuticorin. But

later, problem arose in the form of objection made by the de-facto complainant stating



Crl.OP(MD)No.12813 of 2023

that his right will be affected, if he is forced to withdraw the above said two suits before receiving the share amount.

7.For resolving the issue, the matter was again heard. At that time, the learned counsel appearing for the petitioner has come forward with an undertaking affidavit stating that he will abide by the above said agreement. Within three months, he will arrange the sale. But according to him, the difficulty is that the sale will not be profitable, if the above said two suits are not withdrawn. The parties are agreeable for the conditional order that may be passed by this court.

8.In view of the above said development, anticipatory bail is granted to the petitioner certain conditions:-

(i)The petitioner must arrange prospective buyer and sell the property within a period of three months and the amount must be shared equally;

(ii)The suit filed by the de-facto complainant must be withdrawn and the de-facto complainant shall also give consent for quashment of the FIR registered against the parties. The above said process shall be completed within a period of three months;

(iii)If for any reason, the compromise could not be carried out, the parties are at liberty to revive the proceedings namely the suit filed by the petitioner herein in O.S

No.239 of 2019 on the file of the Sub Court, Thoothukudi and the suit filed by the de-
<https://www.mhc.tn.gov.in/judis>



Crl.OP(MD)No.12813 of 2023

facto complainant in O.S No.148 of 2019 on the file of the Principal District Munsif,
Thoothukudi;

(iv)The parties may appear before the concerned court and withdraw the suit
filed by them simultaneously;

9.Accordingly, the petitioner/ A4 is ordered to be released on bail in the event of
arrest or on his appearance before the learned Judicial Magistrate, Special Court for
Land Grabbing Cases, Thoothukudi and on his 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 petitioner shall appear before the respondent police daily at 10.30 am until further
orders. The petitioner shall comply with the condition stipulated under [Section 438](#)
Cr.P.C. scrupulously. The petitioner shall appear before the concerned Magistrate
within a period of 15 days from the date on which the order is made ready, failing
which, the petition for anticipatory bail will stand dismissed.

sd/-
27/09/2023

/ TRUE COPY /

/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Crl.OP(MD)No.12813 of 2023

ER
TO COPY

- 1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES, THOOTHUKUDI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.12813 of 2023
Date :27/09/2023

PKP/DD/SAR- /17.10.2023/ 6P/ 5C

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