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

Date of Reserved : 26/09/2023

Date of Pronounced : 06/10/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.13211 and 13224 of 2023

Narayanasamy : Petitioner/ Accused No.1
in Crl.OP(MD)No.13211 of 2023

Mariappan : Petitioner/ Accused No.2
in Crl.OP(MD)No.13224 of 2023

Vs.

State represented by
The Sub Inspector of Police,
Keelarajakularman Police Station,
Virudhunagar district.
(Crime No.88 of 2023)

: Respondent/ Complainant
in both the cases

N.Thirukumaran : Petitioner/Intervenor/Defacto Complainant
in CRL MP(MD)Nos.11082 & 11088 of 2023
in CRL OP(MD)Nos.13211 & 13224 of 2023

For Petitioner : Mr.R.Senthil Kumar, Advocate
(in both cases)

For Respondent : Mr.B.Nambiselvan
(in both cases) Additional Public Prosecutor

For Intervenor : Mr.K.Gokul, Advocate
(in both cases)



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

COMMON PRAYER:- For Anticipatory Bail in Crime No.88 of 2023 on the file of the respondent police.

COMMON ORDER: The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 apprehend arrest at the hands of the respondent police for the offences punishable under sections 406, 408, 409, 420, 468 and 506(i) IPC, in Crime No.88 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he is owning 13 acres and 2 cents in various survey numbers in various villages. He wanted to sell the properties. So he requested one Narayanasamy(A1), who is the mediator. For that purpose, he executed a Joint Power of Attorney in favour A1, on 23/02/2023. He handed over all the original documents to him. On 21/04/2022, he obtained Life Certificate from Assistant Surgeon and gave to A1. But the property could not be sold. In the meantime, the Life Certificate expired, on 21/04/2023. Again, he obtained Encumbrance Certificate. At that time, he found that two sale deeds have



been effected in respect of the property by A1 on the strengthen of the power deed.

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On further enquiry, it reveals that by correcting the Life Certificate date, the sale was effected. The Doctors also gave statements that it is fake certificate. On that aspect, he also filed O.S No.642 of 2022 on the file of the Principal Sub Court, Srivilliputhur. With these allegations, he filed a private complaint under section 156(3)Cr.P.C. Upon the order passed by the Judicial Magistrate, Rajapalayam, a case in Crime No.88 of 2023 has been registered for the offences stated above.

3. Seeking anticipatory bail, this petition has been filed by these petitioners.

4. During the trial process, the matter was referred to the Mediation and Conciliation Centre, attached to this Bench, but no settlement could be arrived between the parties.

5. Heard both sides.

6. The execution of the power of attorney in favour of A1 is not denied and disputed. What has been stated by the de-facto complainant is that the Life Certificate has been forged by A1 and effected the above said sale deeds.



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7.It is the contention on the part of the petitioners that the above said Life Certificate has been issued by the competent authority only in favour of the complainant and only on the strength of the above said certificate given by the de-facto complainant, the sale was effected. It is further stated that even after the above said registration of the documents, several transactions took place between the complainant and A1. He is referring to the compromise deed, dated 16/09/2022. But on query, it was stated that the dispute is not covered in the above said compromise. Comprise has been reached between the de-facto complainant and A1 only in respect of some other properties. Even though, it is not related to the subject matter, the above said compromise document was entered only subsequent to the date of the complaint. According to the learned counsel appearing for the petitioners, absolutely, there is no possibility for A1 to forge the above said Life Certificate.

8.After the matter was posted for order, the learned counsel appearing for the petitioners produced the copy of the compromise deed, dated 16/09/2023 entered between the complainant and A1. Wherein, both of them entered into a sale agreement for purchasing some other property, which is not covered under the present subject. Now how the sale agreement was entered, when the present complaint is pending is not understandable.



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9.This court is also not in a position to understand as to how the compromise was reached between the complainant and A1 in respect of some other property, when the present subject matter was pending. Further, it appears that the disputed document has not sent for expert examination. Only on expert examination, the truth will come out.

10.Considering the above said position, this court is inclined to grant anticipatory bail to the petitioners. After obtaining the expert examination report, if the respondent finds that the custodial interrogation of the petitioners is required, they the respondent may approach the concerned jurisdictional court for the purpose of appropriate orders.

11.In view of the above fact, 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, Rajapalayam* 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



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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. The petitioners 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/-

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

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TO

- 1 THE JUDICIAL MAGISTRATE,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE SUB INSPECTOR OF POLICE
KEELARAJAKULARAMAN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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+2 CC to M/s.R.SENTHILKUMAR, Advocate (SR-14762, 14763[I] dated 06/10/2023)

ORDER
IN
Crl.OP(MD)Nos.13211 and 13224 of 2023
Date :06/10/2023

SS/JGB/17/10/2023/7P/7C

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