



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

WEB COPY

CRL.O.P(MD)Nos.15867 and 15834 of 2021

Rajendran

..Petitioner/Accused No.1
In Crl.O.P(MD)No.15867 of 2021

1.Muthukrishanan

2.Muniyasamy

..Petitioners/Accused No.6 &7
In Crl.O.P(MD)No.15834 of 2021

-vs-

State represented by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
(Cr.No.29 of 2021)

...Respondent/Complainant
in both petitions

PRAYER: Criminal Original Petitions are filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest by the respondent Police with respect to Cr.No.29 of 2021.

In both petitions:

For Petitioners : Mr.K.Palmurugan, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

C O M M O N O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 419, 465, 468, 471, 420 and 120(B) IPC in Crime No.29 of 2021 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Chellaiya is that his grandfatehr namely Karuppan Pagadai was having ancestral property in S.No. 640/2B to an extent of 1 acres 51 cents at Kamuthi, Kamuthi Taluk, Ramanathapuram District and after his demise, the defacto complainant and other legal heirs were cultivating the same and thereafter, the petitioner and other



accused created forged document and registered the pro in favour of the first accused on 24.06.2021 vide document No.749/2021. Hence, the complaint.

3.The learned counsel for the petitioner in Crl.O.P(MD)No.15867 of 2021 would submit that the petitioner is arrayed as the first accused in this case. He would further submit that the petitioner is an innocent purchaser and he has purchased the property for a total sale consideration of Rs.1,36,650/- and the amount was received by the second accused. He would submit that now the petitioner came to understand that he has already been cheated. He would also submit that the petitioner has filed an affidavit before this Court stating that he is not claiming any right over the property in S.No.642/2B to an extent of 1.51 cents situated at Kamuthi, Kamuthi Taluk, Ramanathapuram District and he would seek for anticipatory bail to the petitioner.

3.i) The learned counsel for the petitioners in Crl.O.P(MD) No.15834 of 2021/A6 and A7 would submit that the petitioners are attesting witnesses and they are not beneficiaries in the transaction. He would submit that in view of the undertaking affidavit filed by the first accused that he is not claiming any right over the property in S.No.642/2B to an extent of 1.51 cents situated at Kamudhi Taluk, Ramanathapuram District, the petitioners may also be granted anticipatory bail.

4.The learned Government Advocate (Crl.side) would submit that the petitioners and other accused colluded with each other and by fabrication of documents, they have grabbed the property belonging to the defacto complainant. Hence, he would object for grant of anticipatory bail to the petitioners.

5. The relevant portion of the affidavit of undertaking dated 20.02.2023 filed by one Rajendran, who is arrayed as first accused in this case, reads as follows:

'I am not claiming any right over the property in S.No.642/2B to an extent of 1.51 cents situated at Kamuthi, Kamuthi Taluk, Ramanathapuram District'

6.Taking into consideration the facts and circumstances of the case and in view of the undertaking affidavit filed by the first accused in this case that he is not claiming any right over the property in S.No.642/2B to an extent of 1.51 cents situated at Kamudhi Taluk, Ramanathapuram District, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate Court, (Special Court for Land



petitioners shall execute a bond for a sum of Rs.25,000/- (Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 first accused in this case shall also file an affidavit of undertaking before the learned Magistrate that he will not make any claim over the property in S.No.642/2B to an extent of 1.51 cents situated at Kamudhi Taluk, Ramanathapuram District;

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

The affidavit of undertaking dated 20.02.2023 shall form part of this order.

sd/-
21/02/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ENCL:The Affidavit of Undertaking

CM
TO

1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES,
RAMANATHAPURAM DISTRICT.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

<https://www.mhc.tr>



3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
RAMANATHAPURAM DISTRICT.

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

+2 CC to M/s.K.PALMURUGAN, Advocate (SR-2752[I] dated 23/02/2023)

ORDER
IN
CRL.O.P (MD) Nos.15867
and 15834 of 2021
Date :21/02/2023

PKP/SSS/SAR-1/27/02/2023/4P/7C