



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT



(Criminal Jurisdiction)

Date : 21/02/2023

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PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.19191 of 2021

T. Mariappan,

Karmaganathan,

... Petitioners/Accused No.1 & 2

Vs

1. THE STATE REP. BY,
The Inspector of Police,
Kadayam Police Station,
Tenkasi District.
Cr.No. 415 of 2021..

2. The Deputy Commissioner Of,
Police, Tenkasi.
(Amended as Per Order
of This Hon Ble Court Dated 1.02.2022
in Crl.Op.(MD).No.19191/2021 by Gij).

... Respondents/Complainants

For Petitioners : M/s.Bharathi Kannan. KR,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.415 of 2021 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

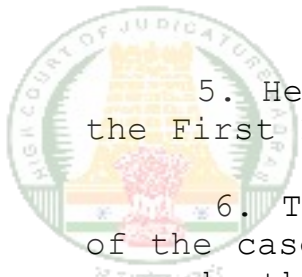
The petitioners/accused who apprehends arrest at the hands of
the respondent police for the offences punishable under sections
<https://www.mhc.tn.gov.in/judis> 406, 464, 465, 468 and 420 of I.P.C., in Crime No. 415 of 2021 on
the file of the respondent police, seek anticipatory bail.



2. The case of the prosecution as per the defacto complainant is that Jebamani W/o.Sundar Singh is that she was married to one Sundarsingh 19 years ago and that she was having properties in S.No.413/1, 404/4A, Keelakadayam Village through family partition. Since her husband got addicted in drinking she left the matrimonial home and she was living separately and taking advantage of the ill health of the husband of the defacto complainant the accused by fabrication of documents and without paying consideration transferred the properties in their name and cheated the defacto complainant and knocked the properties to the tune of Rs. 1 ½ crores, hence the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. He would further submit that the petitioners are genuine purchasers having purchased the property through valid document from the husband of the defacto complainant. The fact remains that the defacto complainant had deserted her husband and she was living separately. The defacto complainant's husband had received those properties through the family settlement and he was in possession and the first property was sold directly by the husband of the defacto complainant on 09.10.2020 to the first petitioner and thereafter and in respect of second property he had given power of attorney on 01.12.2021 based on which the first petitioner executed sale deed in favour of the second petitioner on 12.02.2021. The defacto complainant's husband after execution of sale deed died on 28.02.2021. He would further submit that neither the defacto complainant's husband nor the relative who were living with the husband of the defacto complainant have made allegation as against the petitioners. He would further submit that the case of the prosecution is borne out by documents. He would further submit that the defacto complainant taking advantage of her position as Head Constable in police department had earlier given complaint before the Superintendent of Police, Tenkasi which was enquired by the Deputy Superintendent of Police, Alangulam and it was closed and thereafter second complaint was given on 12.08.2021 which was enquired by Additional Superintendent of Police, Tenkasi and the same was closed. Now the third complaint has been given.

4. The learned Government Advocate(Cri.Side) appearing for the respondent would submit that the husband of the defacto complainant is a drunkard and he was suffering from ill health and the petitioners taking advantage of the above ill health taken him to the Registrar Officer and had transferred the property in his name without paying any consideration and thereby they have knocked the properties of the defacto complainant worth about Rs.1 ½ crores, hence he objected to grant bail to the



5. Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration of the facts and circumstances of the case and also the fact that the entire case is borne out by records 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 learned Principal Sessions Judge, Tirunelveli, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 petitioners shall report before the respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

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

[e] 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].

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

sd/-

21/02/2023

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/03/2023



TO

1. THE PRINCIPAL SESSIONS JUDGE,
TIRUNELVELI

2. THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT.

3. THE DEPUTY COMMISSIONER OF POLICE,
TENKASI.

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

ORDER

IN

CRL OP(MD) No.19191 of 2021

Date :21/02/2023

SI/ /SAR-IV/03.03.2023/4P/5C