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CRL OP(MD). No.15651 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/08/2023

PRESENT

The Hon`ble Mr.Justice P. DHANABAL

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1. Baskaran
2. Nagalakshmi

... Petitioners/ Accused 1 & 2

Vs

The Inspector of Police,
Aruppukottai Police Station,
Aruppukottai, Virudhunagar District.
Crime No.217 of 2023.

... Respondent/Complainant

For Petitioners : M/s.MARIAPPAN G, Advocate

For Respondent : Mr.S.RAVI,
Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No.217 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420, 470, 471 of I.P.C, in Crime No.217 of 2023, on the file of the respondent police, seek anticipatory bail.

<https://www.mhc.tn.gov.in/judis> 2 The case of the prosecution as per the defacto complainant is that A1



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and A2 agreed to sell the house property to him and thereby received a sum of Rs.12,61,000/-. After receiving the said amount, the accused persons neither repaid the advance amount nor execute the sale deed in favour of the defacto complainant. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent and a false case was foisted against them, since there was a civil dispute between the parties. A2 is the mother of A1 and one Ganesan, who died some years back. The said deceased Ganesan has wife and one daughter, viz., Yuga Priya. Originally A2 has purchased the disputed property on 04.09.1980. The said Yuga Priya's mother promised that she and her daughter will live with A1. Hence, A2 has executed a gift deed in favour of minor Yuga Priya, appointing her mother and herself as guardian on 31.10.2006. Thereafter, both the Yuga Priya and her mother were maintained by A1 and A2. On 03.12.2013, the alleged property leased to the defacto complainant and thereafter, A1 decided to sell the same to the defacto complainant. Therefore, a sale agreement was executed by A2 agreeing to sell the property for Rs.21,50,000/- and received a sum of Rs.10 lakhs as advance. Since Yuga Priya's mother married another person, they lived separately. A1 requested Annalakshmi to execute sale deed in favour of the defacto complainant, since the title vested with Yuga Priya, but the same was refused by her. In the meanwhile, on



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02.02.2022, the said Yuga Priya sold the property to one Raja and the said Raja sold the same to the defacto complainant on 27.04.2022. A complaint has been given by A2 to Special Tribunal under Senior Citizenship Protection Act and the same was dismissed on 07.07.2022, against which, an appeal was preferred by A2. The District Collector on 14.07.2023 passed the proceedings stating that the document cannot be cancelled and the senior citizen was abandoned by the Children and the second accused has to be maintained by Yuga Priya till her death. Hence, prays to release them on anticipatory bail.

4.The learned Additional Public Prosecutor submitted that in respect of alleged property, A2 has executed gift deed in favour of her grand daughter and leased out the property to the defacto complainant and agreed to sell the same to him, thereby, received a sum of Rs.10 lakhs. However, the grand daughter of A2 has sold the property to some other person, who in turn, sold the same to the defacto complainant. Therefore, the defacto complainant has filed a complaint under Section 156(3) Cr.P.C and as per the direction of the learned Magistrate, the case has been registered. Hence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Considering the rival submissions made on either side and the entire



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matter is pertaining to civil nature and considering the other aspects, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

7. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Aruppukottai, 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 shall report before the concerned respondent Police on every Saturday at 10.00 A.M. until further orders;

(b) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(c) the petitioners shall not abscond either during investigation or trial;

(d) on breach of any of the aforesaid conditions, the learned Magistrate/

Trial Court is entitled to take appropriate action against the petitioners in accordance



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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]; and;

(e)if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
29/08/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM
TO
1 THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
ARUPPUKOTTAI POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-12923[I] dated 29/08/2023)



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ORDER
IN
CRL OP(MD) No.15651 of 2023
Date :29/08/2023

SA/VR/SAR. /04.09.2023/6P/6C

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