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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/09/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.16447 of 2023

1.A.R.Nagaramapandian
2.A.Raman
3.Mayakkal

... Petitioners/ Accused Nos.1 to 3

Vs

State represented by
The Inspector of Police,
District Crime Branch,
Madurai,
Crime No.22/2023.

... Respondent/ Complainant

For Petitioners : M/s.Ananth C.Rajesh, Advocate.
For Respondent : Mr.B.Nambiuselvan
Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No.22/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/ Accused apprehend arrest at the hands of the respondent police for the offences under Sections 419, 420, 465, 467, 468 and 471 of IPC, in Crime No.22 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 is that the defacto complainant, the first petitioner and six others are the children of the second petitioner. A property in Survey No.453/51 of Kovilankulam village to an extent of 0.71 ares equal to $1 \frac{3}{4}$ cents is originally belongs to one Angammal who is the mother of the second petitioner. The said Angammal had 8 children and the said $1 \frac{3}{4}$ cents has to be divided among the eight children and hence the second petitioner is entitled to 19 sq.ft. Without dividing the above, the third petitioner had executed a settlement deed in favour of the first petitioner for the entire $1 \frac{3}{4}$ cents through a registered settlement deed vide Doc.No.1279 of 2016 dated 02.08.2016. The execution was made by the third petitioner by impersonating the deceased Angammal. Hence the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are innocent, they have been falsely implicated in this case and they have not committed any offence as alleged by the prosecution.

4. Heard the Additional Public Prosecutor and perused the materials on record and also the CD files.



5. Perusal of the records shows that during the course of enquiry on the complaint stage, the first petitioner, second petitioner and the defacto complainant have appeared. During the course of enquiry, the first petitioner has given an undertaking stating that he will allot share to the defacto complainant in the said property. But the first petitioner has not acted upon the undertaking. Later the enquiry was continued and the case has been registered, because of the non compliance of the undertaking given by the first petitioner. He changed his version to the effect that legally the defacto complainant is not having any share in the property and a suit in O.S.No.96 of 2023 has also been registered by the defacto complainant.

6. Apart from that it is seen that the second petitioner also filed a complaint against the defacto complainant before the Distirct Collector, Madurai. On that account, he did not want to keep his promise and a case has been registered. A specific allegation against the first and third petitioner to the effect that they impersonated the deceased Angammal in the disputed documents. So they are not entitled for any discretionary relief.

7. The second petitioner stated that for the issue between himself and the defacto complainant over a property, he gave a complaint before the District



Collector, Madurai. A perusal of CD file shows that the involvement of the second petitioner in the issue is, eventhough during the course of enquiry, he participated and on the basis of the undertaking given by the first petitioner, a statement was given by him. Except that, his specific role is not mentioned even in the FIR or during the course of investigation. Hence the second petitioner is entitled for anticipatory bail.

8. Considering the specific overt act and the seriousness of the allegations, the first and third petitioners are not entitled for any relief. Accordingly, this Criminal Original Petition, is dismissed as far as the first and third petitioners are concerned.

9. Accordingly, this Criminal Original Petition is allowed and the second petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Theni, on condition that the second petitioner 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 learned Magistrate concerned and the second petitioner shall appear before the respondent police daily at 10.30 a.m., until further orders. The second petitioner shall comply with the condition stipulated under Section 438 of Cr.P.C., scrupulously.



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10. The second petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy is made ready, failing which, the petition for anticipatory bail will stand dismissed.

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12/09/2023

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

TO

1 THE JUDICIAL MAGISTRATE,
THENI.

2 THE CHIEF JUDICIAL MAGISTRATE
THENI DISTRICT.

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

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



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ORDER

IN

CRL OP(MD) No.16447 of 2023

Date :12/09/2023

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