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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP (MD) . No.19796 of 2022

1. N.Rathnavel
2. Poonkodi
3. Shivana Rathnavel
4. Madhana Deepa
5. Sudharshana
6. Malar Kannan
7. R.S.Kanagalingam ... Petitioners/Accused No.1 to 7

Vs

- 1.The Inspector of Police,
District Crime Branch,
Thoothukudi District.
Crime No.43 of 2022. ... Respondent/Complainant
- 2.M.Vairavel ...Petitioner/Intevener
in CRL MP(MD)No.14670 of 2022

For Petitioner : M/s.G.Karuppasamy Pandian
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For Intervenor : Mr.K.Ragatheesh Kumar, Advocate
for M/s.Isaac Chambers

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



PRAYER :-

For Anticipatory Bail in Crime No.43 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A7, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 415, 420, 423, 465, 467, 468 and 471 of I.P.C., in Crime No.43 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant, his cousin Nataraja Subramanian and A1 are the trustees of "K.S.P.Natarajan Trust" as per the settlement deed registered in Doc.No.755 of 1956, dated 23.04.1956 and the trust deed registered in Doc.No.2566 of 1956, dated 14.11.1956. But suppressing the same, the petitioner/A1 had executed two rectification deeds dated 30.04.2020 and 21.05.2020 by inserting the names of the accused 2 to 5 as trustees belonging to the said trust with the help of A6 and A7. Hence, the case.

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

4.It is seen that the second petitioner is the wife of the first petitioner and the petitioners 3 to 5 are the daughters of the petitioners 1 and 2. The petitioners 6 and 7 are employees of the first petitioner. The first petitioner and the de-facto complainant are cousins and the said K.S.P.Natarajan Trust was formed to immortalize Mr.Natarajan, S/o.Mr.K.S.Shanmugavel Nadar, who had passed away in the year 1956. On 23.04.1956, the first petitioner's grandfather, father and his family members have settled few properties vide Document No.755 of 1956 in favour of the said trust, which was later registered by the trust deed dated 14.11.1956 in Document No.2566 of 1956 on the file of the Office of the Sub Registrar, Thoothukudi. There were six trustees and Mr.K.S.Shanmugavel Nadar, the grandfather of the first petitioner herein, is the Managing Trustee. Thereafter, on 26.11.1974, a rectification deed was executed vide Document No.662 of 1974 in which, the other four trustees were implicated and thereafter, another rectification deed was executed vide registered Document No.846 of 1975. On 13.02.2017, another rectification deed was executed, in which, the trustees were the petitioners 1 and 2 herein and the first petitioner is the Managing Director of the said trust. On 30.04.2020, another rectification deed was executed, in which, the daughters of the petitioners 1 and 2 were also added as the trustees. In this regard, there is a dispute between the other trustee, namely, the de-facto complainant. The allegation is that the petitioners are carrying out his objects all along and it was



established to run the schools, namely, K.S.P.Natarajan High School and K.S.P.Natarajan Primary School. The first petitioner herein is the Managing Director of the said trust and is having a Secretary of the school. The de-facto complainant is the cousin brother of the first petitioner and all are members of the school committee. The further allegation is that the trust has lands and all the properties are managed by the trustees. As per the trust deed, the male members of the founder trustees will become trustees automatically and family members cannot become trustees. The said clause is not amended till date. However, the other ladies were added as trustees by way of rectification deed without consent of the others. Therefore, all the allegations are civil in nature and if at all the de-facto complainant is any grievance over the supplementary deed, he has to approach the civil Court for appropriate relief. Therefore, the custodial interrogation of the petitioners is not required in this case.

5. In view of the above, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

6. 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 Judicial Magistrate No.IV, Thoothukudi District, 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 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].



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

sd/-
14/03/2023

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/03/2023

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

sj i

TO

1.THE JUDICIAL MAGISTRATE NO.IV, THOOTHUKUDI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

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

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

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-4161[I] dated
14/03/2023)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-4236[I] dated
15/03/2023)

ORDER

IN

CRL OP(MD) No.19796 of 2022

Date :14/03/2023

RK/CG/SAR-2 (28/03/2023) 4P/7C