



CRL OP(MD)No.18631 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 17.10.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.18631 of 2023

1.John

2.Gnanadass @ Joshuva Gnanadass

... Petitioners / Accused No.1 & 4

Vs

The State rep by
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
(In Crime No.19 of 2022)

... Respondent / Respondent

For Petitioners : Mr.R.Mohanasundaram, Advocate

For Respondent : Mr.R.Suresh Kumar,
Government Advocate(Crl.side)

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

PRAYER :- For Anticipatory Bail in Crime No.19 of 2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for



CRL OP(MD)No.18631 of 2023

the offences punishable under Sections 420, 465, 467, 468, 471, 417, 419, 120(B) and 109 IPC in Crime No.19 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the accused persons sold the property to the defacto complainant by creating forged document and by impersonating the original owner. Hence the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that the petitioners are only brokers and they have only introduced the defacto complainant to other accused and they have not executed any documents in favour of the defacto complainant. Hence, he seeks anticipatory bail.

4.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that the accused persons, by creating forged documents and impersonating the original owner of the property, sold the same to the defacto complainant and thereby, cheated him. He would further submit that the investigation of this case is not yet completed. Hence, he objected to grant anticipatory bail to the petitioners.

5.On perusal of records, it is noticed that the petitioners herein are only brokers and they have only introduced the defacto complainant to the other



CRL OP(MD)No.18631 of 2023

WEB COPY

accused. It is also noticed that the petitioners have not executed any documents in favour of the defacto complainant. Under theses circumstances, the petitioners, being brokers, have no any nexus with the alleged offence as stated in FIR.

6.Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC 260 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are having permanent residence at Tirunelveli District. Hence the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7.In view of the above, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the



CRL OP(MD)No.18631 of 2023

WEB COPY

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 Special Judicial Magistrate (FAC), Special Court for Anti Land Grabbing Cases, Tirunelveli on condition that the petitioners shall execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 affix their photograph 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 trial Court on summons.

[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



CRL OP(MD)No.18631 of 2023

Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

WEB COPY

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

sd/-
17/10/2023

/ TRUE COPY /

/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

To

1.The Special Judicial Magistrate (FAC),
Special Court for Anti Land Grabbing cases,
Tirunelveli.

2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
District Crime Branch,
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-15295[I] dated 17/10/2023)



WEB COPY



CRL OP(MD)No.18631 of 2023

ORDER

IN

CRL OP(MD) No.18631 of 2023

Date :17/10/2023

ED/VRS/SAR- (02/11/2023) 6P / 6C

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