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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/01/2023

PRESENT

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

CRL OP(MD). No.426 of 2023

Rajaselvaraj ... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Central Crime Branch,
Madurai City.
(Crime No.40 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Jayaramachandran A,
Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

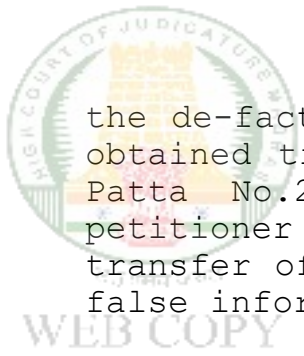
PRAYER :-

For Anticipatory Bail in Crime No.40 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 465, 468, 471, 166, 280 and 506(i) of I.P.C., in Crime No.40 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant B.K.Gopilal, is that he had purchased a piece of house site bearing plot No.C7 comprised in S.No.59/8B from one Syed Abuthaker Hussain through a registered sale deed bearing document No.2894/990, dated 25.04.1990 and constructed a dwelling house in the said land comprised in S.No.59/8B is 0.09.0 ares, which was originally owned by one Pandiyan and thereafter, one Periyaalagiammal W/o Pettaikaran @ Raman, purchased the said land on 29.09.1973. After the demise of said Periyaalagiammal, her husband Pettaikaran @ Raman and his son Maluchamy sold out the said land to one Syed Abuthaker Hussain on 04.04.1990 who divided the same into 7 house plots and sold out one plot to the de-facto complainant. In the above said circumstances,



the de-facto complainant came to understand that the petitioner had obtained transfer of patta in his name for the above said land in Patta No.2638. Later, on enquiry, he came to know that the petitioner with the assistance of revenue authorities had obtained transfer of patta for the above said land in his name by furnishing false information to the Tashildar Office and hence, the case.

3.The learned counsel for the petitioner would submit that this is the fourth application for anticipatory bail and the earlier applications for anticipatory bail was argued certain important aspects were not put forth before this Court. He would further submit that there are several proceedings pending between the petitioner and the de-facto complainant before the revenue authorities. He would further submit that the real fact remains that the petitioner's father namely, Raman owned an ancestral property of a land to an extent of 0.09.0 ares comprised in S.No.59/8B, situated at Anaiyur I Bit Madurai North Taluk. The petitioner's father was also issued with a patta bearing No.414 to the said land by the revenue authority. After the demise of his father on 19.03.2014, the petitioner submitted an application to the Tahsildar Koolapandi through online seeking to transfer the above patta in his name. After site visit, the Village Administrative Officer, Anaiyur made recommendation to the Tahsildar, Madurai North to transfer the patta in the petitioner's name, based on which, the Tahsildar, Madurai North, has passed an order to that effect. In furtherance of the said order, patta related to the above said land was transferred in the name of the petitioner through patta No.2638. In fact, the de-facto complainant and few others had purchased the above said land from one Syed Abuthaker Hussain, who purchased the same from one Pettaikaran @ Raman, who was a total stranger to the petitioner above mentioned land except having similar name to that of the petitioner's father. By misusing a similarity of the name, the said Pettaikaran @ Raman had sold out the petitioner's land to Syed Abuthaker Hussain who in turn sold out to the de-facto complainant and others. It is pertinent to note here that while the name of the vendor of Syed Abuthaker Hussain has been mentioned in the sale deed bearing document No.1330/1990 as "Pettaikaran @ Raman", the patta related to the above said land bearing No.414 has been issued in the name of the petitioner's father ie., "Raman". The above said glaring contradiction would makes it crystal clear that the petitioner alone is the title holder of the above said land and the de-facto complainant and others are none other than the encroachers. He would further submit that the petitioner is taking steps to evict the encroachers and recover the possession of the land through appropriate civil forum. Besides, it is significant to note that one Meenachi Sundaram, the Zonal Deputy Tahsildar, Koolapandi, who is arrayed as A2 has already preferred a quash petition in CrI.O.P.(MD)No.545 of 2022 and this Court has passed an order in CrI.M.P.(MD)No.417 of 2022, dated 12.01.2022, directed the first respondent not to file any final report against him. He would submit that the entire case of the prosecution is borne out



by documents and the petitioner is ready to co-operate with the respondent for investigation and hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the petitioner, taking advantage of the fact that his father's name and the de-facto complainant's father's name are one and the same, had changed the patta in his favour and had attempted to take possession of the de-facto complainant. He would further submit that in respect of the petitioner, two previous cases of similar nature are pending in CCB(ALGSC) Crime No.63 of 2016 and CCB(ALGSC) Crime No.27 of 2021 and he would object for grant of anticipatory bail.

5.In reply, the learned counsel for the petitioner would submit that even in those cases, the proceedings are pending before the revenue authorities and the civil suits are also pending. He would further submit that as far as this case is concerned, three writ petitions are pending and he would reiterate that the case of the prosecution is borne out by documents.

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

7.Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Court for Trial of Land Grabbing Cases, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Judge/trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., until further orders.

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



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

[e] On breach of any of the aforesaid conditions, the learned Special Judge/trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Special Judge/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/-

25/01/2023

/ TRUE COPY /

/02/2023

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

SJI

TO

1 THE SPECIAL JUDGE FOR TRIAL OF LAND GRABBING CASES, MADURAI.

2 THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, MADURAI CITY.

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

+1 CC to M/s.A.JAYARAMACHANDRAN, Advocate (SR-1225[I] dated
27/01/2023)

ORDER

IN

CRL OP(MD) No.426 of 2023

Date :25/01/2023

RS/MMS/SAR.3(07.02.2023) 4P-5C