



No.18806/2023/A3

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2023

PRESENT

The Hon'ble Mr.Justice V.SIVAGNANAM

CRL OP(MD). Nos.18806, 18834 & 18944 of 2023

N.Raveendra	... Petitioner/ A3 in CrI.O.P(MD)No.18806/2023
AKA.Arumugarajan	... Petitioner/ A5 in CrI.O.P(MD)No.18834/2023
1.Hildasankar	
2.Palanisankar	... Petitioner/ A1 & A2 in CrI.O.P(MD)No.18944/2023

Vs

1.The Inspector of Police, District Crime Branch, Tirunelveli District. Crime No. 15/2023.	... Respondent in all CRL Ops
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2.Suveendran	...Petitioner/Proposed 2 nd Respondent/ Defacto Complainant in CRL MP(MD)Nos.15361,15348&15342 of 2023
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In all petitions:

For Petitioners : M/s. PONNIAH.M,
Advocate.

For Respondent : Mr.RMS.SETHURAMAN,
Additional Public Prosecutor

For Intervenor : Mr.K.MU.MUTHU, Advocate

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.15 of 2023 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 to A3 and A5 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 465, 467, 468 and 120B IPC in Crime No.15 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A3 and the defacto complainant are brothers. The petitioners created a forged will dated 04.11.2021 in favour of the



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defacto complainant's father. Hence, the complaint.

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3.The learned counsel appearing for the petitioners would submit that the petitioners are the innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that in respect of the same, a Probate O.P.No.94 of 2022 is pending before the Additional District Judge, Tirunelveli. Hence, he prays for anticipatory bail to the petitioners.

4.The learned counsel appearing for the intervenor would submit that there are previous cases pending against the petitioners in Crime No.846 of 2022 and 658 of 2022. He would submit that the petitioners have created a forged will after the death of the father of the defacto complainant. Hence, he strongly objected to grant anticipatory bail to the petitioners.

5.The learned Additional Public Prosecutor appearing for the respondent police also would submit that the petitioners have created a forged will. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

6.Heard both sides and perused the materials available on the record.



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7. A perusal of the records, it is noticed that there is a civil dispute between the petitioners and the defacto complainant with regard to the alleged will executed by the father of the defacto complainant and the third accused. Further, a perusal of the FIRs in Crime No.846 of 2022 and 658 of 2022 placed by the learned counsel for the intervenor, it is noticed that the first accused forged and created documents by putting fake signature of the father and letter of authority of the complainant's father and presented the bank. Further, it is noticed that without giving proper treatment, the defacto complainant's father died. Therefore, the allegations made in the above FIR have to be investigated. However, in the present case is concerned, it is not in dispute that with regard to the alleged will, a probate O.P is pending. Whether the alleged Will is forged or not, it has to be decided by the Civil Court. Therefore, considering the facts and circumstances of the case and taking into consideration the principle 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 alleged offence against the petitioners is not a case of heinous crime. Further, the petitioners are having



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permanent resident at Virudhunagar 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 to 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.

8. 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 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.I, 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 photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar Card or Bank



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Pass Book to ensure their identity.

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[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 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/-
03/11/2023

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

skn

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TO
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1.THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

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

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

+3 CC to M/s.M.PONNIAH, Advocate (SR-15921,15922[I] dated 03/11/2023)

+3 cc to MR.K.MU. MUTHU, Advocate SR Nos.15948,15949,15950

ORDER
IN

CRL OP(MD) No.18806 of 2023

Date :03/11/2023

RK/JGB (07/11/2023) 7P / 11C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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