



CRL OP(MD). No.19132 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19132 of 2023

1. Sathasivam @ K.R.Sadhasivam,

2. K.S.Giriraja,

3. K.S. Jeyaprakash,

... Petitioners/ Accused Nos. 1, 3 & 4

Vs

State Rep.by
The Inspector of Police,
Avaniyapuram Police Station,
Avaniyapuram, Madurai District.
Crime No.749 of 2023.

... Respondent/ Complainant

For Petitioner : M/s. Jagadeesan.K, Advocate.

For Respondent : Mr.R.Sureshkumar,

Government Advocate (Crl.Side)

For Intervenor : Mr.C.Mayilvahana Rajendran, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.749 of 2023 on the file of the respondent Police.



CRL OP(MD). No.19132 of 2023

WEB COPY

ORDER : The Court made the following order :-

The petitioners/A1, A3 & A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120B, 294(b), 506(2), 465, 467, 468, 471, 419 and 420 of IPC in Crime No.749 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 04.02.2020, the de-facto complainant has purchased the house property in S.No.407/4A5B of an extent of 5 cents in Avaniyapuram Village from one Mr.Subramani, to whom power was given by the title holder Mr.Kamalanathan and his daughter Smt.Hema and Mr.Hari by virtue of registered sale deed and from the date of purchase, the de-facto complainant was in continuous possession and enjoyment of the same. At this juncture, the sons and daughters of Late.K.S.Ramamoorthy, have joined together and created forged partition deed on 16.02.2023 by suppressing the last registered Will dated 16.09.1987 and registered with the help of Sub Registrar, Joint No.IV, Madurai South and District Registrar. When the de-facto complainant went to visit the property on 19.08.2023, A1 to A3 along with Pradeep and Dhanalakshmi threatened the de-facto complainant and abused him in filthy language. Hence, the case.



CRL OP(MD). No.19132 of 2023

WEB COPY

3. The learned counsel appearing for the petitioners would submit that the respondent police registered a case in pursuance of the complaint given by the de-facto complainant in Crime No.749 of 2023 for the offences under Sections 120B, 294 (b), 506(2), 465, 467, 468, 471, 419 and 420 of IPC. The allegation against the petitioners is that the petitioners entered into a partition deed on 07.07.1993 and 12.05.1996 and the same was registered before the Sub Registrar, Parasalai, Kerala. The grievance of the de-facto complainant is that he has purchased the property from one Subramani on 04.02.2020 in pursuance of the Will executed by one Late K.S.Ramamoorthy, dated 22.02.1988. Therefore, the case has been registered. He would further submit that by filing O.S.No.915 of 2004, showing the power agent Subramanian/5th defendant, one of the petitioners obtained a decree with regard to the disputed property. He would further submit that another suit also filed in O.S.No.76 of 2022 declaring the registered sale deed dated 04.02.2020 executed by the sixth defendant-Subramani in favour of the seventh defendant, ie., de-facto complainant and the same is still pending. Hence, no criminal offence is committed by the petitioners. Therefore, he prayed for grant of anticipatory bail to the petitioners.

4. When the matter is taken up for hearing, the learned counsel appearing for

the de-facto complainant and the learned Additional Public Prosecutor objected to

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). No.19132 of 2023

grant anticipatory bail to the petitioners.

5. The learned counsel for the de-facto complainant would submit that the grievance of the de-facto complainant is that the de-facto complainant had purchased the property on 04.02.2020 by way of registered sale deed and knowing the fact of Will, the petitioners entered into a forged partition deed on 16.02.2023 and registered with the help of Sub Registrar, Joint No.IV, Madurai South and District Registrar.

5. Heard. perused the materials available on record including the First Information Report.

6. On perusal of the records, it is noticed that the de-facto complainant has purchased the property from one Subramani on 04.02.2020 and the petitioners had entered into a partition deed on 07.07.1993 and 12.05.1996 and the same was registered before the Sub Registrar, Parasalai, Kerala and one of the petitioners already obtained decree with regard to the disputed property before the court below in O.S.No.915 of 2004. Further, it is seen that another suit also filed in O.S.No.76 of 2022 seeking for the relief of declaration and the registered sale deed dated 04.02.2020 executed by the sixth defendant-Subramani in favour of the seventh defendant, ie., defacto complainant and the same is still pending.

7. Admitting the allegation of the de-facto complainant as it is true entering into a partition without title will not amount to any criminal case, it may be a document



CRL OP(MD). No.19132 of 2023

executed without title.

8. Considering the nature of allegation and also considering 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 origine 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 residents at Madurai 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.

9. 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.VI,

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). No.19132 of 2023

Madurai, on condition that the petitioners shall execute 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 report before the trial Court on receipt of summons;

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] 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].



CRL OP(MD). No.19132 of 2023

WEB COPY

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

sd/-
31/10/2023

/ TRUE COPY /

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

SJI

TO

- 1 THE JUDICIAL MAGISTRATE NO.VI
MADURAI.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
AVANIYAPURAM POLICE STATION,
AVANIYAPURAM,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.19132 of 2023
Date :31/10/2023

PKP/JGB/SAR- /06.11.2023/ 7P/ 5C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023

<https://www.mhc.tn.gov.in/judis>