



WEB COPY

Crl.O.P (MD)N



22

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

Date : 04/01/2023

PRESENT

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

CRL OP(MD) . Nos.21627 and 22066 of 2022

Crl.O.P (MD)No.21627 of 2022

1.R.N.Thangamani
2.R.N.T.Senthilkumar
3.R.N.T.Balaji ... Petitioners/Accused 1 to 3

Vs.

The State rep.by
The Inspector of Police,
Thirukattupalli Police Station,
Thanjavur District
(Crime No.74 of 2021) ... Respondent/Complainant

Bazeer Ahamed, ... Petitioner(Intervener)/
Defacto Complainant
in CRL MP(MD).16235/22

For Petitioners : Mr.A.Arun Prasad

For Respondent : Mr.A.Albert James
Government Advocate (Crl.Side)

For Intervenor : Mr.B.Anandan

Crl.O.P (MD)No.22066 of 2022

Chandrasekar @ Sekar ... Petitioner/Accused No.4

Vs.

State rep.by
The Inspector of Police,
Thirukattupalli Police Station,
Thanjavur District
(Crime No.74 of 2021) ... Respondent/Complainant



For Petitioner : Mr.C.Suresh Kannan
For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

WEB COPY

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

PRAYER :-

For Anticipatory Bail in Crime No. 74 of 2021 on the file of the respondent Police.

C O M M O N O R D E R : The Court made the following order :-

The petitioners/Accused 1 to 4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 120, 420 and 465 I.P.C in Crime No.74 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Bazeer Ahamed is that the property in S.No.73/3A to an extent of 0.05.0 ares and S.No.73/9A to an extent of 0.12.50 ares situated at Thirukkattupalli belongs to Thanjavur District Vallam Madharasa and the property was handed over to one Sherif Rowther for managing the same. He leased out the property to one Natesan, who is the father of A1 and the lease period was only five years. After demise of Sherif Rowther, Kadar Masthan took over the charge of the said property. Though the lease period was over, Natesan has not vacated the property and Kadar Masthan took necessary steps to vacate the said Natesan from the property. The defacto complainant is the son of the Kadar Masthan. After the death of his father, the defacto complainant took charge and revenue records were mutated in his name. He was working abroad and taking advantage of his absence, the first accused created a forged document as if he is the owner of the property and executed a settlement deed in favour of A2, who is his son. With regard to remaining portion, A1 executed another settlement deed in favour of the wife of A2. Subsequently A2 pledged those documents to one Wellington and borrowed a sum of Rs.5 lakhs as debt. They have also constructed buildings with some shops from receiving huge amount from various people without getting approval from Town Panchayat, Thirukkattupalli and the Commissioner of Thirukkattupalli has issued demolition notice to the petitioner. After that the petitioner came to know all fraudulent activities of the accused. Hence, the complaint.

3. The learned counsel for the petitioners in both applications submitted that the petitioners are innocent persons and they have been falsely implicated in this case.



4. The learned counsel for the petitioners in Crl.O.P (MD) No.21627 of 2022 submitted that originally the property belongs to one Bazeer Ahamed and lease was taken by one Natesan Chettiyar, the forefather of the petitioners and thereafter, lease continued. The property devolved on the legal heir of the said Bazeer Ahamed and the petitioners' family members have been continuously running shops by paying rent to him, whereas due to the old age of the first petitioner, he had intended to transfer the lease rights to his sons who are the second and third petitioners and however, due to typographical error instead of transferring the lease right, it is wrongly stated as gift settlement. The petitioners have no criminal intention to cheat the defacto complainant. He would further submit that the first petitioner has only transferred lease right not transferred the property and further, the entire case of the prosecution is borne out by documents and the petitioners are ready to abide any stringent condition imposed by this Court. He would further submit that the case has been registered based on the direction issued by the Magistrate under Section 156 (3) Cr.P.C. He prays for grant of anticipatory bail to the petitioners/A1 to A3.

5. The learned counsel appearing for the petitioner in Crl.O.P.(MD) No. 22066 of 2022/A4 submitted that the petitioner is only a tenant in the area and he would submit that he has not claimed any right over the property and therefore, he prays for grant of anticipatory bail to the petitioner/A4.

6. The learned Government Advocate (Crl.Side) submitted that the first accused is a lessee under the forefathers of the defacto complainant and later, the first accused fabricated a document as if he has settled the property in favour of his sons, who are the second and third accused. The fourth accused is the tenant under A1 and he has colluded with them to defeat the rights of the defacto complainant. Hence, he prays to dismiss the applications. He would also submit that the major portion of investigation has been completed and draft charge sheet is also made ready and civil suits are also pending between the parties.

7. The learned counsel for the intervenor would vehemently oppose for grant of anticipatory bail by stating that the accused had fabricated the document and had attempted to defeat the rights of the defacto complainant's parties.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

9. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



10. It is made clear that the observations made herein above are only to decide these applications for anticipatory bail and the same will not have any bearing or affect the civil rights of the parties.

WEB COPY

11. Accordingly, the Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Thiruvaiyaru**, 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 Station everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

[c] the petitioners shall not tamper with the 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]**; and;

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

sd/-
04/01/2023

/ TRUE COPY /

/01/2023

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

CM



TO

WEB COPY

1. The Judicial Magistrate, Thiruvaiyaru
2. Do Through The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.
3. The Inspector of Police,
Thirukattupalli Police Station,
Thanjavur District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.C.SURESH KANNAN, Advocate SR.No. 148

ORDER
IN
CRL OP (MD) Nos.21627 and 22066 of 2022
Date : 04/01/2023

TR/mms/SAR-I (12.01.2023) 5P 6C