



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 16/02/2023
PRESENT

WEB COPY

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

CRL OP(MD) . No.21925 of 2022

1. Sathurappan, (A1)

2. S.Revathi, (A2)

... Petitioners

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Virudhuagar Collectorate(Sub Office),
Virudhunagar-626 002.

... Respondent

G.Revathy

... Intervening Petitioner/
Defacto Complainant

In Crl.MP(MD).16376/2022
in Crl.OP(MD).21925/2022

For Petitioner : Mr.R.ELANGO, Advocate
for Mr.MEIIYAPPAN MOHAN, Advocate.
For Respondent : Mr.P.KOTTAI CHAMY,
Government Advocate (Crl.Side)
For Intervenor : M/s.KANIMOZHI MATHI, Advocate

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

PRAYER :- For Anticipatory Bail in Crime No.10/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

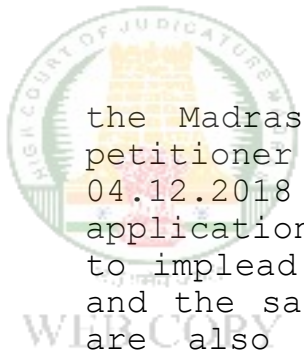
The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offence under Sections 120B, 406, 419, 465, 467 and 471 IPC in Crime No.10 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner and the de-facto complainant are brother and sister. The de-facto complainant's father had purchased a property in Survey Nos.451, 452/2 and 449/2 situated at Sitthurajapuram Village, Sivakasi Taluk and thereafter, he died in the year 2007. The first petitioner, with an intention to grab the properties, had stolen the original title documents and by taking advantage of the similarity in the name of



the de-facto complainant's father had committed impersonation and created a fraudulent settlement deed in favour his wife/second petitioner. Hence, the complaint.

3.The learned Senior Counsel appearing for the petitioners would submit that this is the second application for anticipatory bail and the earlier application for anticipatory bail in Crl.O.P. (MD) No.11580 of 2022 was dismissed on 08.11.2022. He would further submit that there are change of circumstances in the present petition. He would further submit that the first petitioner Sathurappan, Amuthavalli, the defacto complainant and one Revathy are the children of Sathurappan and Rukmani. The first petitioner was running a hotel business along with his father and being an income tax assessee, had purchased various properties in his individual name under various sale deeds and some other properties were purchased along with his father. After the demise of his father, the mother of the first petitioner along with his sisters including the de-facto complainant had executed a registered released deed in favour of the first petitioner dated 21.01.2008, in respect of the properties, which were in the name of the first petitioner's father. After the release deed, the entire properties transferred in the name of the first petitioner and he was in absolute possession and enjoyment of all the properties. Whileso the first petitioner, out of 1 acre and 48 cents in S.No.452/2, had settled 14 cents of lands in favour of the second petitioner, his wife, by way of a settlement deed dated 07.09.2018. Thereafter, on the instigation of some relatives, the de-facto complainant had earlier lodged a complaint on 01.11.2018 before the Land Grabbing Cell, Virudhunagar with the same allegations and the Inspector, finding that there was no substance in the complaint, closed the same as false in nature. Thereafter, the de-facto complainant had also filed W.P.(MD)No.24600 of 2018 before this court and the same was closed on 13.12.2018. The de-facto complainant had also initiated proceedings before the Revenue Authorities seeking for cancellation of patta issued in the name of the first petitioner and the same was also dismissed vide order dated 20.09.2019 in Mu.Mu.A1/2324/2019 by the Revenue Divisional Officer, Sivakasi. Whileso the de-facto complainant had also filed a civil suit in O.S.No.5209 of 2016 before the City Civil Court, Chennai and the same was withdrawn and dismissed as not pressed on 05.03.2020. Subsequently, the de-facto complainant had also filed a civil suit in C.S.No.183 of 2017 before the Madras High Court and the same is pending. In the civil suit, the de-facto complainant being well aware of the release deed had not included the properties in S.Nos.451, 452 and 449/2 in Sitthurajapuram Village, Sivakasi Taluk. Later, the petitioners had taken out an application in A.No.3267 of 2021 in C.S.No.183 of 2017 before the Principal Seat to amend the plaint by including the properties in the suit and it is pending. In the meanwhile, the earlier application of the petitioners came to be dismissed on 08.11.2022. He would further submit that earlier the de-facto complainant had also filed a vexatious writ petition before



the Madras High court in W.P.No.20931 of 2018 against the petitioner along with her sister and the same was also dismissed on 04.12.2018 and now the de-facto complainant has also moved an application before the Principal Seat in C.S.No.183 of 2017 seeking to implead the second petitioner as 16th defendant in the said suit and the said properties settled in favour of the second petitioner are also included in the same case. The de-facto complainant suppressing all the pending disputes and the earlier civil proceedings, has lodged the present complaint against the petitioners. He would further submit that during the earlier similar complaints, the petitioners were called for enquiry by the Land Grabbing Special Cell, Virudhunagar and the petitioners have also appeared before the respondent for enquiry on 04.03.2021 on receipt of summons. During such time, enquiry was conducted and the de-facto complainant had appeared in person and informed the respondent police that she would seek relief before the Civil Court and that she had withdrawn the earlier complaint and that was also suppressed during the earlier hearing. He would further submit that the case of a civil nature has been attempted to be projected as a case of criminal in nature. He would further submit that there is absolutely no case of impersonation and forgery. The de-facto complainant along with her other sister and mother had executed a released deed in favour of the first petitioner and she has now come out with a false complaint. He would further submit that the entire case of the prosecution is borne out by documents and the custodial interrogation of the petitioner may not be required. He would further submit that the petitioners even on the earlier hearing, on receipt of summons under Section 41-A of Cr.P.C, have appeared before the respondent and co-operated for investigation and they also undertake to appear before the respondent for the purpose of investigation. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that as per the First Information Report, the petitioner and the de-facto complainant are siblings. The first petitioner taking advantage of the similarity in the name of his father with that of him, out of 1 acre 48 cents in S.No.452/2, had settled 14 cents of lands in favour of the his wife/2nd petitioner, which was registered in Document No.6296 of 2018, dated 07.09.2018 and he would object for grant of bail.

5.The learned counsel for the intervenor would submit that the first petitioner taking advantage of the similarity in the name of their father with that of the first accused, had transferred the properties in his name and he has also obtained patta in his favour by suppression and grabbed the land belonging to her father, in which, she is also entitled to 1/3rd share. The original documents are also retained by him. She would further submit that after the death of her father, the first petitioner had transferred all the revenue records in his favour. She would further submit that after the withdrawal and dismissal of the earlier application, there is no change of



circumstances. Hence, she would object for grant of anticipatory bail.

6. In reply, the learned Senior Counsel for the petitioner would submit that certain important facts were not brought before this court during the argument of the earlier application and even if it is assumed that the de-facto complainant has got a right in the property, she is only entitled to 1/3rd share of her and the petitioner is entitled to 49 cents and out of which, the first petitioner has only transferred 14 cents of lands in favour of his wife/2nd petitioner, who has nothing to do with the alleged offence. He would further submit that the petitioners are also ready and willing to produce the documents before the respondent police for the purpose of investigation. He would further submit that the petitioners and the de-facto complainant are not strangers and already civil suits are pending between the parties.

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

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

9. 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.II, Virudhunagar, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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:

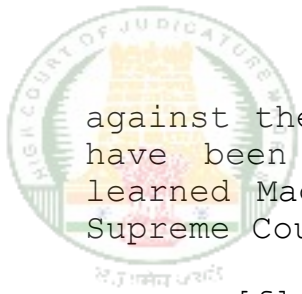
[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[b] the petitioners shall report before the respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders; and further, the petitioners shall hand over the original documents to the respondent police for the purpose of investigation as and when required by them.

[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 is entitled to take appropriate action



against the petitioners in accordance with law as if the co is 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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

16/02/2023

/ TRUE COPY /

/02/2023

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

SJI

TO

1 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUAGAR
COLLECTORATE (SUB OFFICE) ,
VIRUDHUNAGAR-626002.

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

+1. CC to M/S.MEYIAPPAN MOHAN Advocate SR.No.2532

ORDER

IN

CRL OP(MD) No.21925 of 2022

Date :16/02/2023

SA/VR/SAR.2/27.02.2023/5P/6C