



CRL OP(MD)No.19651 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27.11.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.19651 of 2023

Gandhi

... Petitioner/4th Accused

Vs

The Inspector of Police,
District Crime Branch,
Theni District.
Crime No.37 of 2023

... Respondent/Complainant

For Petitioner : Mr.P.Sivachandran, Advocate
For Respondent : Mr.R.Suresh Kumar,
Government Advocate(Crl.side)

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

PRAYER :-

For Anticipatory Bail in Crime No.37 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 417, 420, 465, 468, 471 and 120B IPC in Crime No.37 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the father of the defacto complainant was



CRL OP(MD)No.19651 of 2023

died on 09.09.2005 and legal heir certificate also issued to that effect. The property belonged to the father of the defacto complainant situated in S.Nos.1068/1A, 1069/1 and when the defacto complainant verified the encumbrance, he came to know that the defacto complainant's sister one Mariammal had executed settlement deed in favour of her son by creating forged documents, which was registered by the petitioner herein. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that A1 and A2 only created forged legal heir certificate and the petitioner herein only issued possession certificate. Hence, he seeks anticipatory bail.

4.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that the petitioner, being Village Administrative Officer, without any field inspection, mechanically issued possession certificate. He would further submit that the investigation in this case is pending.

5.Considering the nature of allegations levelled as against the petitioner and taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamlendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4



CRL OP(MD)No.19651 of 2023

SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC

WEB COPY

260 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residence at Theni 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.

6. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. 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 is made ready, before the learned Judicial Magistrate, Theni on condition that the petitioner 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 :



CRL OP(MD)No.19651 of 2023

WEB COPY

[a] the petitioner shall affix his photograph 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 his identity.

[b] the petitioner shall report before the trial Court on summons.

[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 Magistrate/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 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/-
27/11/2023

/ TRUE COPY /

/12/2023

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

gns

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



CRL OP(MD)No.19651 of 2023

TO

WEB COPY

1 THE JUDICIAL MAGISTRATE, THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

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

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

+1 CC to M/s.S.ALAGUSUNDAR, Advocate (SR-16928[I] dated 27/11/2023)

ORDER
IN

CRL OP(MD) No.19651 of 2023

Date :27/11/2023

RS/DD/SAR-(08.12.2023) 5P 6C

Madurai Bench of Madras High Court is issuing
certified copies in this format from 17/07/2023