



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P(MD)Nos.22324 of 2022 and 236 of 2023

WEB COPY

1.E.V.Rengasamy

2.Vellaiyan

...Petitioners in Crl.O.P.No.22324/22
/Accused 1 and 3

Peruvellai

...Petitioner in Crl.O.P.No.236/23
/Accused No.4

-vs-

The State represented by
The Inspector of Police,
District Crime Branch,
Trichy District
(Crime No.26 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petitions are filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.26 of 2022 on the file of the respondent Police.

For Petitioners
in Crl.O.PNo.22324/22 : Mr.K.S.Karthiravan

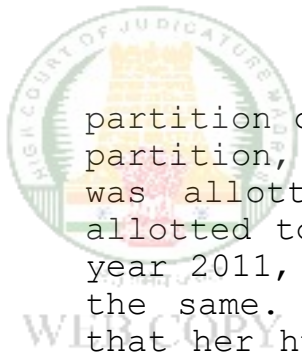
For Petitioner
in Crl.O.PNo.236/23 : Mr.G.Prabhu Rajadurai

For Respondent : Mr.P.Kottai Chamy
in both petitions Government Advocate (Crl.side)

C O M M O N O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 420, 467, 468, 506(1) and 120B IPC in Crime No.28 of 2022 on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Jayanthinathan's power of attorney Kanagalakshmi is that the property in S.No.127/1 of Elamanam village belonged to one Vengidusamy Naicker and after his demise, the son of said Vengidusamy born through his first wife/ E.V.Rengasamy and the son born through his second wife/husband of defacto complainant's Principal, viz., V.Velusamy divided the properties by virtue of



partition deed, dated 04.08.2019, (Doc.No.1607 of 1979). During the partition, out of entire extent of Ac.4.50cents, the western half was allotted to Velusamy and the eastern half Ac.2.25cents was allotted to the E.V.Rengasamy. After the demise of Velusamy in the year 2011, his wife Kanagalakshmi was in possession and enjoyment of the same. Subsequently, on perusal of encumbrance, it was found that her husband's step brother Rengasamy had fraudulently executed sale deed, including the share of his husband, to one Vellaiyan/A3 (second petitioner in Crl.O.P(MD)No.22324 of 2022) and Peruvellaiyan/A4 (petitioner in Crl.O.P(MD)No.236 of 2023) vide sale deed, dated 27.10.1999, registered with Doc.No.2939/99, in collusion and conspiracy with Madha Naicker and one Thavasi Ambalam, who have signed as witnesses in the said document. When the same was questioned by the defacto complainant's Principal, the accused persons threatened her with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioners in Crl.O.P(MD) No.22324 of 2022 submitted that the first petitioner and the husband of Kanagalakshmi, were step brothers. During the lifetime of said Velusamy, he handed over the properties to the first petitioner, who was in continuous possession and enjoyment, by doing agricultural work and it was also known to the defacto complainant's Principal. Subsequently, due to family pressure a false complaint has been given and a civil suit is also pending between the parties.

4. He would further submit that the first petitioner and the subsequent purchasers viz., Vellaiyan/second petitioner and Peruvellai/petitioner in Crl.O.P(MD)No.236 of 2023, who is another purchaser, have filed an undertaking affidavit before the Court that they will not encumber the property further. He prays for grant of anticipatory bail to the petitioners.

5. The learned counsel for the petitioner in Crl.O.P(MD)No.236 of 2023 would submit that the defacto complainant has lodged a false complaint that too after a period of 23 years from the date of execution of the sale deed and the petitioner is unnecessarily roped in this case to wreck out vengeance.

6. The learned counsel for the petitioners in both petitions would submit that the entire case of the prosecution is borne out by documents and civil suit is pending between the parties. Hence, they pray for grant of anticipatory bail to the petitioners.

7.The learned Government Advocate (crl.side) would submit that by fabrication of documents grabbed the property belonging to the defacto complainant in the year 1999 and investigation is pending and he opposes to grant anticipatory bail.



8. Heard and perused the materials available on record and taking into consideration 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 (Special Court for Land Grabbign Cases/Mahial Court, (incharge), Tiruchirappalli, on condition that the petitioners shall execute 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 everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[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.

The affidavits dated 14.02.2023 filed by the second petitioner in Crl.O.P(MD)No.22324 of 2022 and the subsequent purchaser/petitioner in Crl.O.P(MD)No.236 of 2023 shall form part of the court records.

sd/-

14/02/2023

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



WEB COPY

1.The Judicial Magistrate (Special Court for Land Grabbing Cases/
Mahila Court (incharge) Tiruchirappalli.

2.The Inspector of Police,
District Crime Branch,
Trichy District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. CC to M/S.KARTHIRAVAN.K.S. Advocate SR.No.8438 (f)

+1. CC to M/S.G.Prabhu Rajadurai, Advocate SR.No.2320

ORDER
IN
CRL OP(MD) No.22324 of 2022
and CRL OP(MD) No. 236 of 2023
Date :14/02/2023

RK/VS/SAR-I (21/02/2023) 4P 6C