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

Date : 02/01/2023

PRESENT

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

CRL OP (MD) .Nos.22912,22921,22928 and 22946 of 2022

1. A.Murugan,

2. C.Mary,

... Petitioners/Accused Nos. 3 & 4
in Crl.O.P(MD) No.22912 of 2022

1. A.Kannan,

2. Geetha,

... Petitioners/Accused Nos. 6 & 7
in Crl.O.P(MD) No.22921 of 2022

1. Martin Judu,

2. George Jeyakumar,

... Petitioners/Accused Nos. 8 & 9
in Crl.O.P(MD) No.22928 of 2022

1. Anantharaj,

2. Mariammal,

3. A.Chinnadurai,

...Petitioners/Accused Nos. 1,2 & 5
in Crl.O.P(MD) No.22946 of 2022

Vs

State Rep.by
The Inspector of Police,
City Crime Branch (CCB),
Tirunelveli City,
Tirunelveli District.
(Crime No. 17 of 2022).

... Respondent/Complainant
in all petitions

For Petitioners : Mr.K.K.Ramakrishnan, Advocate
for M/s.Ilayaraja.R,Advocate.
In CRL OP(MD)No. 22912 of 2022



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Mr.Mr.K.K.Ramakrishnan, Advocate
for Mr.S.Vishunuvardhan, Advocate.
In CRL OP (MD) No.22921 of 2022

Mr.K.K.Ramakrishnan, Advocate
for Mr.V.Muthukamatchi, Advocate.
In CRL OP (MD) No. 22928 & 22946 of 2022

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor
in All Petitions

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

COMMON PRAYER :-

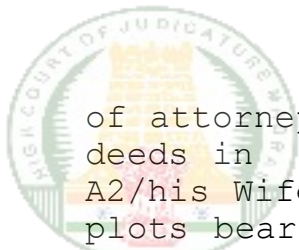
For Anticipatory Bail in Crime No.17 of 2022 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A3, A4, A6, A7, A8, A9, A1, A2 and A5 respectively who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 465, 467, 468, 471, 420 and 120(B) of IPC in Crime No.17 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that her mother Selvarani was living alone at Perumalpuram and on 02.04.2022 she was found dead in a suspicious manner. During her life time she had owned several plots in Atchaya Nagar, Rettiyapatti, Perumalpuram and Nesamani Nagar in Tirunelveli. On verification the defacto complainant had found that A1 had without paying any consideration had obtained power of attorney from her mother and had conveyed properties to his wife/A2, Son/A5 and thereafter some properties to A3 and A4 and other accused namely A8 had obtained power of attorney on 11.01.2022 and had sold few other properties in Nesamani Nagar to A9 and A8 after the death of the mother of the defacto complainant on 02.04.2022 had sold certain properties to A9 on 05.04.2022. A6 and A7 have also by sale deed on 17.03.2022 had purchased some properties from the mother of the defacto complainant. Suspecting fraud in the transactions the case came to be registered.

3. Mr.K.K.Ramakrishnan, the learned counsel would submit that the petitioners in Crl.O.P(MD) No.22946 of 2022 are arrayed as A1, A2 and A5 and the petitioners in Crl.O.P(MD) No.22912 of 2022 are arrayed as A3 and A4. He would further submit that the mother of the defacto complainant was residing at Perumalpuram and she was owning properties and she had after receiving due consideration from A1 in plot Nos.40A, 41, 42, 43, 44, 61, 62, 117 had executed a power

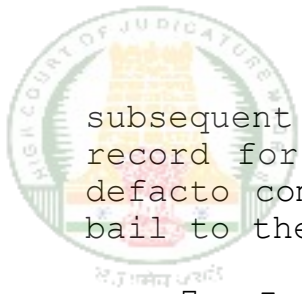


of attorney in favour of A1, pursuant to which A1 had executed sale deeds in respect of the plots bearing Nos.117,40A,41 in favour of A2/his Wife and thereafter he had executed sale deeds in respect of plots bearing Nos.61 and 62 to A5/his Son and he had executed sale deeds in respect of plot No.42 to A3 and plot No. 43 to A4. He would further submit that excepting plots bearing No.40A and 41 all other properties were sold during the life time of Selvarani/mother of the defacto complainant and plot No.40A and 41 were sold on 04.04.2022. A1 had paid the entire consideration and the documents were registered legally during the life time of the mother of the defacto complainant. A2 was not aware of the death of the mother of the defacto complainant. However subsequently coming to know about the death of the mother of the defacto complainant A1 had cancelled the sale deed registered subsequent to the death of the mother of the defacto complainant. He would further submit that the petitioners are innocent purchasers and in order to show their *bonafides* they are ready to deposit the original title deeds to the credit of crime number before the learned Magistrate at the time of surrender.

4. The learned counsel for the petitioners would further submit that the petitioners in Crl.O.P(MD) No.22921 of 2022 are arrayed as A6 and A7 and they have purchased the properties directly from the deceased during her life time on 17.03.2022 and they have not committed any offence and for having purchased the property legally by paying valid consideration they cannot be mulcted with criminal liability. Further the sale consideration is also reflected in the sale deed.

5.He would further submit that the petitioners in Crl.O.P(MD) NO.22928 of 2022 are arrayed as A8 and A9 and A8 has obtained power of attorney dated 11.01.2022 from the mother of the defacto complainant and thereafter based on the power of attorney A8 had sold the properties in favour of his brother/A9 on 05.04.2022. Subsequently coming to know about the death of the mother of the defacto complainant on 02.04.2022, A8 and A9 have cancelled the sale deed. He would further submit that the petitioners were not aware of the death of the mother of the defacto complainant on 02.04.2022 and they have not committed any criminal act by obtaining valid power of attorney and registering the sale deeds based on the valid power of attorney. He would further submit that the entire transaction is based on documents and the custodial interrogation of the petitioners may not be required and the petitioners are ready to deposit the original sale/title deeds before the Court, hence he seek anticipatory bail to the petitioners.

6.The learned Additional Public Prosecutor would submit that the mother of the defacto complainant was living separately and she was found dead in the suspicious circumstances on 02.04.2022. On verification, the defacto complainant came to know that certain properties belonging to her mother were sold by power of attorney



subsequent to her death. He would further submit that the record for consideration that has passed on to the mother of the defacto complainant, hence he would object to grant of anticipatory bail to the petitioners.

7. In reply the learned counsel for the petitioners would submit that the sale deed and the power of attorney were done by proper registration and only after considerations were paid to the mother of the defacto complainant and she had come to the Registrar's Office and executed valid power of attorney and there is no criminal motive on the part of the petitioners.

8. Heard the learned counsel appearing on either side and perused the materials available on record including the First Information Report.

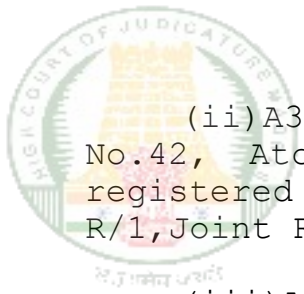
9. Taking into consideration the facts and circumstances of the case and also the submission made by the learned counsel that the petitioners are ready to deposit the original title deeds and are ready to co-operate for the investigation, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. 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 Anti Land Grabbing Cases, Tirunelveli**, 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] at the time of furnishing sureties the petitioners shall in the following manner deposit the original title deeds to the credit of Crime No.17 of 2022:

(i) A2 shall deposit the original title deed in respect of plot No.117, Atchaya Nagar, Rediyarpatti Village, Palayamkottai Taluk registered vide Doc.No. 146 dated 06.01.2022 on the file of R/1, Joint Registrar, Palayamkottai,



(ii) A3 shall deposit the original title deed in respect of plot No.42, Atchaya Nagar, Rediyarpatti Village, Palayamkottai Taluk registered vide Doc.No. 147 dated 07.01.2022 on the file of R/1, Joint Registrar, Palayamkottai,

(iii) A4 shall deposit the original title deed in respect of plot No.44, Atchaya Nagar, Rediyarpatti Village, Palayamkottai Taluk registered vide Doc.No. 444 dated 25.01.2022 on the file of R/1, Joint Registrar, Palayamkottai,

(iv) A5 shall deposit the original title deed in respect of plot Nos.61,62, Atchaya Nagar, Rediyarpatti Village, Palayamkottai Taluk registered vide Doc.No. 1956 dated 19.03.2022 on the file of R/1, Joint Registrar, Palayamkottai,

(v) A6 and A7 shall deposit the original title deed in respect of Door No.62,62A, Perumalpuram, Ochankulam, Thomas Street (comprised in Survey No.541/1) registered vide Doc.No. 2382 dated 17.03.2022 on the file of Melapalayam Sub Registrar, Palayamkottai and only thereafter the learned Magistrate shall accept the sureties furnished by all the petitioners.

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

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

[f] 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]**.

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

sd/-
02/01/2023

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/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR ANTI LAND GRABBING CASES,
TIRUNELVELI.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
CITY CRIME BRANCH (CCB),
TIRUNELVELI CITY,
TIRUNELVELI DISTRICT

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

+1 CC to M/s.ILAYARAJA.R, Advocate (SR-67[I] dated 03/01/2023)

+3 CC to M/s.MUTHUKAMATCHI.V, Advocate (SR-64,65 & 66 [I] dated
03/01/2023)

ORDER

IN

CRL OP(MD) .Nos.22912,22921,22928
and 22946 of 2022

Date :02/01/2023

PKP/SSS/SAR-4/10.01.2023/6P/9C