



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/01/2023

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PRESENT

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

CRL OP(MD). No.23131 of 2022

Rajagopal

... Petitioner/Accused No.1

Vs.

State represented by
The Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.
Crime No. 153 of 2022

...1st Respondent/Complainant

For Petitioner : M/s. Senthil Kumar.M, Advocate

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

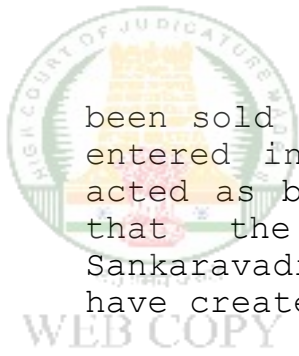
PRAYER :-

For Anticipatory Bail in Crime No. 153 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 465, 467, 468, 471 and 506(1) I.P.C, in Crime No.153 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Paasupathi is that his grandmother Thangam @ Sankarawadivammal was the owner of 90.15 acres (36.50.0 hectares) in Mela Ilandhakulam Village, Melur Taluk, Tirunelveli District, comprised in Survey No.231 in patta No.255. The settlement deeds stated to be executed in favour of the petitioner by the grandmother were cancelled later. After 34 years of cancellation of the settlement deeds, suppressing the same, the petitioner and his children executed 4 power of attorneys in favour of the accused 4 to 7. Thereafter, they sold the same to the 8th accused. The 8th respondent sold some properties to the accused 11 to 12 and they constructed wind mills in the properties. The remaining lands have



been sold in favour of the 13th and 14th accused companies. The 15th accused entered into the land and erected solar panels. The 15th accused acted as broker for the transactions. Taking advantage of the fact that the defacto complainant and other legal heirs of Sankaravadiammal are living in the different places, the accused have created fraudulent sale deeds. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner and the defacto complainant are half brothers. He would further submit that the defacto complainant's grandmother had earlier settled the disputed property in favour of the predecessor in title of the petitioner and later, the grandmother unilaterally cancelled the settlement deed in respect of which civil suits have been instituted. This Court in S.A.No.2160 of 1976 by order dated 13.11.1979 had given a verdict in favour of the petitioner. The Second Appeal filed by the father of the defacto complainant was dismissed and the verdict was given in favour of the petitioner. Thereafter, the petitioner had sold the property in the year 2004 itself and a false complaint has been given. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner and the defacto complainant are relatives. Earlier, the defacto complainant's grandmother had executed settlement deed in favour of the petitioner in the year 1969. Later, the grandmother had unilaterally cancelled the same. The petitioner, suppressing the cancellation of settlement deeds, had sold the property to the third parties. Hence, prays to dismiss the petition. However, he would concede that the Second Appeal filed by the defacto complainant's side came to be dismissed and verdict has been given in favour of the petitioner by this Court.

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

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

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.III, Tirunelveli**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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.

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[b] the petitioner shall report before the respondent Police Station everyday at 10.30 a.m., for a period of one week and thereafter, as and when required for interrogation;

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

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

sd/-

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

CM

TO

- 1.THE JUDICIAL MAGISTRATE NO.III, TIRUNELVELI,
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 3 THE INSPECTOR OF POLICE,
DEVARKULAM POLICE STATION,
TIRUNELVELI DISTRICT.



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

+1 CC to M/s.SENTHIL KUMAR.M Advocate (SR-103[I] dated 04/01/2023)

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ORDER

IN

CRL OP(MD) No.23131 of 2022

Date :03/01/2023

RK/VR/SAR-1 (10/01/2023) 4P/6C