



CRL OP(MD) No.602 of 2024

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

Thursday, the Eleventh day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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1 DEVARAJ @ KOILPITCHAI DEVARAJ
2 RAJA JOTHI

... PETITIONER/ ACCUSED NO.1 & 2

Vs

THE INSPECTOR OF POLICE
CITY CRIME BRANCH (CCB) POLICE STATION,
TIRUNELVELI CITY.
(CRIME NO.28 OF 2023)

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.EBENEZER.T.A Advocate
For Respondent : MR.P.KOTTAICHAMY, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL UNDER SEC 438 OF CR.P.C.

PRAYER : FOR ANTICIPATORY BAIL IN CRIME NO.28 OF 2023 ON THE FILE OF
THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners/ A1 & A2, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 465, 467, 468, 471, 420 IPC, in Crime No.28 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the disputed property belonged to one



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Appadurai. He died issueless. The first petitioner without any title, created a forged document and executed settlement deed in favour of his wife, who is the second petitioner. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution. He would further submit that the said Appadurai has one sister and one brother. The petitioner claimed his as an adopted son of said Appadurai whereas the defacto complainant claims that he is the legal heir of the said Appadurai and thereby, the first petitioner filed suit and the defacto complainant also filed suit. The suit filed by the defacto complainant was allowed and the suit filed by the first petitioner was dismissed for non-prosecution. In the meantime, the petitioner filed a probation petition for executing the will and the same was also dismissed, against which, the first petitioner preferred appeal before the lower appellate Court, which was also dismissed. He would further submit that the petitioners will file an undertaking affidavit stating that they will not further encumber the disputed property and they will not enter into the disputed property without due process of law. Hence, he prayed to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that investigation is not yet completed.



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5.Considering the facts and circumstances of the case and also considering the fact that the petitioners themselves come forward to file an undertaking affidavit stating that they will not further encumber the disputed property and they will not enter into the disputed property without due process of law, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.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 of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Tirunelveli, on condition that the petitioners shall execute a 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 and on further condition that:

(a)if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the first petitioner shall report before the respondent police daily at 10.30



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a.m., for a period of two weeks and thereafter as and when required and the second petitioner shall report before the respondent police as and when required;

(d)the petitioners are directed to file an undertaking affidavit stating that they will not further encumber the disputed property and they will not enter into the disputed property without due process of law;

(e)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioners shall not abscond either during investigation or trial;

(g)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]; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
11/01/2024

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/01/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

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

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

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-736[I] dated 12/01/2024)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-1476[F] dated 12/01/2024)

ORDER

IN

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Date :11/01/2024

RS/JGB/SAR-(23.01.2024) 5P 7C

Madurai Bench of Madras High Court is issuing
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