



CRL OP(MD) No.23640 of 2023

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

Monday, the Twenty Second day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.23640 of 2023

1 RAJA

2 ANGAMMAL

... PETITIONERS / ACCUSED 3 & 4

Vs

THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH II POLICE STATION,
TIRUCHIRAPALLI DISTRICT.
CRIME NO.38 OF 2023.

... RESPONDENT / COMPLAINANT

For Petitioner : MR.V.R.SHANMUGANATHAN Advocate

For Respondent : Mr.P.KOTTAICHAMY, Govt. Advocate (CrI. Side)

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

PRAYER:

FOR ANTICIPATORY BAIL IN CRIME NO.38 OF 2023 ON THE FILE OF THE
RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police



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for the alleged offence under Sections 419, 420, 423, 467, 468, 471 and 120(B) IPC @
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419, 420, 423, 467, 468, 471 and 120(B) IPC r/w Section 21(1) of Mines and Minerals
(Development & Regulation) Act 1957, in Crime No.809 of 2023, seek anticipatory
bail.

2.The case of the prosecution is that the defacto complainant is the owner of the property in dispute. However, without his knowledge, the accused Nos.1 and 2 executed a sale deed in favour of A3 and A4. Apart from that, they also quarried minerals in the said property in dispute taking advantage of the licence granted to them by the Government to the adjacent property. Hence, the case.

3.The learned counsel appearing for the petitioners submitted that the petitioners are *bona fide* purchasers and they purchased the property from A1 and A2. Thereafter, they came to know that the defacto complainant claimed the ownership of the subject property and made a complaint before the respondent police. He further submitted that the petitioners filed an undertaking affidavit today and the relevant portions of the said undertaking affidavit read as follows:-

7. I submit that however since now an allegation is made that the power deed based on which the sale deed was executed to us i.e., petitioners/A3 and A4 are forged, in order to



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show our bona fide, we undertake that we shall approach appropriate civil Court within a period of three weeks from today seeking appropriate relief to safe guard our rights and interests over the property in dispute. I submit that till the outcome of the said civil suit we undertake that we shall not rely or act up on the sale deeds as follows, either for alienation or any encumbrance or otherwise.

i. Sale deed dated 23.09.2019 registered as Document No.1995/2019 executed by power agent Vadivelu in favour of Raja.

ii. Sale deed dated 23/09/2019 registered as Document No.1997/2019 executed by power age Vadivelu in favour of Angammal.

08. I submit that we shall proceed further only after the outcome of the civil suit as stated above. In case in the forgery is proved and if we were found not to be bonafide, we shall cooperate for execution of necessary documents to cancel the sale deeds in our favour.

9. I submit that in case if the forgery is found to be not proved and if we are found to be bonafide purchasers, we may be permitted to proceed to deal with the property in dispute as its lawful, rightful owners.

10. I submit that we hence pray this Hon'ble Court to record the above affidavit of undertaking and grant us anticipatory bail and thus render justice.



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4. Relying on the undertaking affidavit, the learned counsel appearing for the petitioners submitted that the petitioners will not alienate or encumber the property and they shall approach the civil Court in order to prove their *bona fide* purchase.

5. The learned Government Advocate (Crl. side) submitted that investigation is pending and he strongly opposed to grant anticipatory bail to the petitioners.

6. Considering the facts and circumstances of the case and also considering the undertaking affidavit filed by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, this Criminal Original Petition is ordered and 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, Lalgudi, 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;



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(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 petitioners are directed not to encumber or enter the disputed property till the disposal of the civil suit.

(d) the petitioners shall report before the respondent police as and when required for interrogation;

(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 abscond, a fresh FIR can be registered under Section 229-A IPC.



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8. However, liberty is granted to the defacto complainant to file either a petition before the District Registrar under Section 77A of the Registration Act, 1908 or a civil suit before the competent civil Court.

sd/-
22/01/2024

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/02/2024

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

CP

TO

- 1 THE JUDICIAL MAGISTRATE,
LALGUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH II POLICE STATION,
TIRUCHIRAPALLI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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ORDER
IN
CRL OP(MD) No.23640 of 2023
Date :22/01/2024

SS/JGB/SAR- /01/02/2024/7P/5C

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