



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

Wednesday, the Twentieth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.11639 of 2016

ROJAR KOVILPILLAI

..PETITIONER/ACCUSED No.2

Vs.

STATE REP.BY

THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH, THOOTHUKUDI,

THOOTHUKUDI DISTRICT.

CR. NO.38/2016

..RESPONDENT/COMPLAINANT

For Petitioner : M/S K.BALASUBRAMANI Advocate

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

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner is arrayed as accused No.2, who was arrested and remanded to judicial custody on 15.06.2016 for the alleged offences punishable under Sections 419, 465, 468, 471, 420 and 120(b) IPC, in Crime No.38 of 2016, on the file of the respondent police and hence, seeks bail.

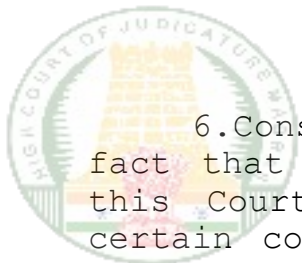
2.The case of the prosecution is that one Hameed Jalal, elder brother of the de facto complainant and others are the owners of 157.40 acres of land situated in various survey numbers at Ottapidaram Village, Thoothukudi District and they purchased the same vide sale deed dated 24.07.1962 bearing Document No.918/1962. They sold major portion of the land to other persons. Similarly, the elder brother of the de facto complainant namely Hameed Jalal was the owner of 8 acres 32 cents. He sold the said land except 59 cents in Survey No.548/2. Hameed Jalal, elder brother of the de facto complainant appointed the de facto complainant as his power agent vide power of attorney deed dated 19.04.2010 bearing Document No.01/2010. The de facto complainant obtained encumbrance certificate and found that the petitioner and others created forged document and A.1 impersonated the de facto complainant's brother Hameed Jalal and appointed the petitioner/A.2 as the power agent of Hameed Jalal. The petitioner sold the property to A.3, who in turn, sold the property to A.4 and A.4 entered into a lease agreement with the District Collector for quarrying gravel sand. The de facto complainant has applied for sub division. The Tahsildar sub divided the same and by mistake mentioned the survey number as Survey

No.548/2B1A and subsequently it was corrected as Survey No.548/2B1B. On complaint, case has been registered for the above said offences.

3.The case of the petitioner is that the de facto complainant has not placed relevant facts before the respondent police. Earlier one Ravi lodged a complaint before the respondent police with the very same set of facts including the property in question. In that case, the petitioner was granted anticipatory bail in CrI.O.P(MD) No.18671 of 2012 vide order dated 14.12.2012. The said Ravi filed O.S.No.510 of 2012 on the file of the Principal District Munsif Court, Tuticorin and the said suit was decreed, against which A.S.No.151 of 2014 was filed before the District Court, Thoothukudi and the same is pending. The de facto complainant as power agent also filed O.S.No.363 of 2013 on the file of the Principal District Munsif Court, Tuticorin against all the accused persons for the reliefs of declaration, injunction and to cancel the sale deeds in respect of the same property. The said suit is pending. A.1 approached the petitioner and informed him that he is the owner of the property and produced the document. Believing the said representation, the petitioner was appointed as power agent of Hameed Jalal and sold the property to A.3, who in turn, sold the same to A.4. The de facto complainant is trying to give criminal colour to civil dispute. A.3 and A.4 were already granted anticipatory bail by this Court vide order dated 21.06.2016 made in CrI.O.P(MD)No.9782 and 9783 of 2016. The petitioner is an innocent and he has not committed any offence as alleged by the prosecution. The petitioner is in judicial custody from 15.06.2016.

4.The learned Government Advocate (CrI. side) submitted that the de facto complainant's brother is the owner of the property in question. The petitioner and other accused persons conspired together and created a document impersonating A.1 as de facto complainant's brother and forged his signature and fabricated the forged power of attorney. Based on the same, they sold the property in question to third parties. The present complaint relates to the property retained by Hameed Jalal and the earlier complaint lodged by one Ravi relates to the property sold by Hameed Jalal. Investigation is pending. A.3 and A.4 are the subsequent purchasers and after considering the said fact, this Court granted anticipatory bail to them and the reasoning given by this Court in respect of A.3 and A.4 is not applicable to the case of the petitioner and prayed for dismissal of this petition.

5.The allegation against the petitioner is that he conspired with other accused persons and impersonated the de facto complainant's brother and created forged document by forging the signature of the de facto complainant's brother. The contentions of the learned counsel for the petitioner are that one Ravi lodged a complaint for the very same property with very same facts and A.3 and A.4 were already granted anticipatory bail by this Court and therefore the petitioner is also entitled for bail.



6. Considering the above said facts and also considering the fact that the petitioner is in judicial custody from 15.06.2016, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

- (i) 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 learned Judicial Magistrate No.1, Thoothukudi.
- (ii) the petitioner shall report before the respondent police daily at 10.00 a.m. and 05.00 p.m. until further orders.
- (iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iv) the petitioner shall not abscond either during investigation or trial.
- (v) 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]**.

7. The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioner is complying with the condition or not.

sd/-

20/07/2016

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, THOOTHUKUDI.
- 2 -do-thro' THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI.
- 3 THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, THOOTHUKUDI, THOOTHUKUDI DISTRICT.
- 5 THE OFFICER-IN-CHARGE, SUB JAIL, SRIVAIKUNDAM, THOOTHUKUDI DISTRICT.

+1. CC to M/S K.BALASUBRAMANI Advocate SR.No.37881

ORDER IN

CRL OP(MD) No.11639 of 2016

Date : 20/07/2016