

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Third day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN
CRIMINAL ORIGINAL PETITION No.27241 of 2018

R.SAMPATH

[PETITIONER / ACCUSED]

Vs

STATE REP. BY
THE INSPECTOR
ORGANIZED CRIME UNIT II,
CBCID, CHENNAI-600 008.
CR.NO.2 OF 2018

[RESPONDENT]

For Petitioner : MR.ANANTHA NARAYANA SENIOR COUNSEL FOR
M/S.S.PRAKASH Advocate

For Respondent : MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioner, who apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 419, 420, 465, 468 and 471 r/w 120 of IPC in Crime No.2 of 2018, seeks anticipatory bail.

2. Heard both sides.

3. The case of the prosecution is that the 1st accused Rajagopal, by impersonating the original owner of the property, has executed a Power of Attorney in favour of one S.Soosai Arul, who in turn executed two sale deeds in favour his daughter and son-in-law respectively.

4. The learned counsel for the petitioner would submit that the petitioner herein has been arrayed as A2 and he stood as a witness to the Power of Attorney executed by the 1st accused in favour of the said Soosai Arul. The learned counsel for the petitioner would further submit that the petitioner is an innocent person and he has been falsely implicated in this case. Further, he is willing to co-operate with the investigation. Thus, he prayed for grant of anticipatory bail.

5. The learned Additional Public Prosecutor would submit that some of the accused persons viz., A1, A3, A5, A7, A8 and A9 were

arrested and subsequently, released on bail. So far as the petitioner is concerned, he stood as a witness to the Power of Attorney executed by the 1st accused and that the accused the persons cheated the defacto-complainant to the tune of Rs.57,000/-. Therefore, the learned Additional Public Prosecutor vehemently opposed for grant of Anticipatory Bail.

6. It is seen from the petition that the petitioner herein is arrayed as second accused. Even according to the case of the prosecution, the first accused impersonated the original owner of the property viz., one Annamalai Azhagappan and executed the power of attorney in favour of the defacto- complainant, who in turn executed the sale agreement in favour of his own daughter and son-in-law. In the said Power of Attorney, the petitioner/A2 stood as a witness. Therefore, the petitioner is not directly involved in this case of crime as alleged by the prosecution with the other accused. He is also with the complainants' witness.

7. Considering the above facts and circumstances that the dispute is civil in nature, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is 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 XI Metropolitan Magistrate, Saidapet, 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.

[b] the petitioner shall report before the respondent police as and when required.

[c] the petitioner shall not tamper with 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]**.

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

-sd/-

23/11/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.XI, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR
ORGANIZED CRIME UNIT II,
CBCID, CHENNAI-600 008.

CC to M/S.S.PRAKASH Advocate on payment of necessary charges

CRL OP.27241/2018

Date : 23/11/2018

RD 28/11/2018

WEB COPY