



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

Tuesday, the Thirtieth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.1417 of 2018

GULAM KADER

... PETITIONER / ACCUSED NO.2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
TRICHY DISTRICT.
(CRIME NO.13 OF 2015)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S. T.VADIVELAN, Advocate

For Respondent : M/S.K.SUYAMBULINGA BHARTHI, Govt.Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner/Accused No.2, who was arrested and remanded to judicial custody on 12.01.2018 for the alleged offences punishable under Sections 468, 471 and 420 of IPC., in Crime No.13 of 2015, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant lodged a complaint before the respondent police on 27.05.2015 alleging that in the year 2013, his property was sold by the petitioner along with some other accused by creating forged documents. Thus, they cheated the defacto complainant. Hence, the case has been registered against the petitioner and other accused persons for the above said crime.

3.The learned counsel representing the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the defacto complainant purchased the property in dispute from some unauthorised persons. Moreover, a suit for declaration has been filed by the petitioners before the learned Sub Judge, Tiruchirappalli, in O.S.No.926 of 2013, in which the defacto complainant and his vendor also arrayed as parties. Suppressing the fact, now, the defacto complainant lodged the present complaint. Hence, he prays for grant of bail to the petitioner.



4. The learned Government Advocate (Criminal side) appearing for the respondent on instructions, would submit that the case was registered on 27.05.2015 and there are totally three accused in this case. The petitioner/A2 was arrested on 12.01.2018. A1 and A3 were not arrested so far. He further submitted that preliminary investigation reveals that the disputed property originally belongs to the defacto complainant, thereby the petitioners created forged documents and sold the same to another party and cheated the defacto complainant. According to the prosecution, the investigation is in premature stage.

5. The submissions made by the learned counsel on either side are considered. It is alleged that during the time of occurrence, the defacto complainant purchased the property in dispute from one Karunanithi, who has purchased the disputed property from A1. Eventhough, the case was registered in the year 2015, the petitioner was arrested on 12.01.2018 and till now, he is in judicial custody. Further, with regard to the declaration of title, a suit has been filed before the learned Sub Judge, Tiruchirappalli in O.S.No.926 of 2013 in which the defacto complainant and his vendor are arrayed as parties. So, considering the circumstances, it clearly established that the evidence to be collected in this case are in the form of documents, so, custodial interrogation may not be necessary for completing the investigation. Hence, this Court is inclined to grant bail to the petitioner with some stringent 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.25,000/- (Rupees twenty five thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Trichy;

(ii) the petitioner shall report before the respondent police, daily at 10.00 a.m., until further orders;

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(iv) the petitioner shall not commit any offence while on bail;

(v) the petitioner shall not abscond either during investigation or trial;

(vi) on breach of any of the aforesaid conditions, the bail granted to the petitioner shall stand automatically cancelled and 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



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].

sd/-
30/01/2018

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

TO

1. THE JUDICIAL MAGISTRATE NO.III, TRICHY.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.
3. THE SUPERINTENDENT,CENTRAL PRISON, TRICHY.
4. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
TRICHY DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. T. VADIVELAN Advocate SR.No.1605

ORDER
IN
CRL OP(MD) No.1417 of 2018
Date :30/01/2018

MS/PM-PN/SAR.2/30.01.2018/3P.7C