

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eleventh day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.2627 of 2019

N.GUNASEKARAN

[PETITIONER / ACCUSED]

Vs

STATE BY

INSPECTOR OF POLICE,
G-1, VEPERY POLICE STATION,
CHENNAI.

CRIME NO.647 OF 2018

[RESPONDENT]

For Petitioner : MR.AR.L.SUNDARESAN for Senior counsel for
M/S.VENKATESH MOHANRAJ Advocate

For Respondent : M/S.S.THANKIRA GOVERNMENT ADVOCATE

For Intervener : M/S.K.BALASUBRAMANIAM Advocate

PETITION FOR BAIL 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 09.01.2019 for an offence under Sections 420, 465, 468, 471 and 506(i) IPC in Crime No.647 of 2018 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is working as a Manager in Indian Bank. The defacto complainant, his brother R.Gunasekaran and A1/ Rasathi are the legal heirs of Mr.T.Rajamanickam. During his life time, the said Rajamanickam executed a Will bequeathing the property in the name of the defacto complainant and his brother R.Gunasekaran. After his demise, the defacto complainant's elder brother R.Gunasekaran was taking care of the entire business and also opened joint account and made various fixed deposits in the joint account. After his demise on 20.08.2005, the defacto complainant and his mother had equal share in the property and the amount deposited in the bank and also other immovable properties. It is the case of the prosecution that without the knowledge of the defacto complainant, his sister / Rasathi (A1) along with this petitioner with an ulterior motive suppressed the

Will, which was in force and got a release deed from their mother. Subsequently, a settlement deed was also created in favour of A3 for a portion of the property. This petitioner has been added as A2 since he misused his official position in Indian Bank and is said to have fabricated the signature of the petitioner's elder brother/R.Gunasekaran and has closed all the fixed deposits standing in his name and withdrawn the money. That apart, it is alleged that there is a forged legal heirship certificate, which mentions the legal heirs as A1 and A3.

3. The learned Senior counsel for the petitioner submitted that this petitioner is the husband of Rasathi (A1). There is already a family dispute between the defacto complainant and A1, with regard to the share in the property. The learned Senior counsel further submitted that this petitioner was arrested and remanded to judicial custody on 09.01.2019 and A1 has already been granted bail.

4. Mrs.S.Thankira, learned Government Advocate submitted that the investigation is pending and that this petitioner being the Manager of the bank had a major influence in closing all the fixed deposits that was standing in the joint account of defacto complainant and his brother.

5. The learned counsel appearing for the intervenor submitted that the defacto complainant's sister (A1) along with her husband, the petitioner herein suppressed the Will executed by the father in favour of the defacto complainant and had created various fabricated documents. The learned counsel further submitted that this petitioner taking advantage of his position as a Manager in the bank, has closed the deposits and had also taken the money. The learned counsel further submitted that now a settlement deed has also been executed in favour of A3 for a portion of the property.

5. This Court has carefully considered the submissions made on either side.

6. Taking into consideration the facts and circumstances of the case and also the fact that this petitioner has been suffering incarceration from 09.01.2019 and he has been inside the jail for more than 32 days and also the fact that A1 has already been granted bail and the entire case is borne out by records and the respondent police never took this petitioner on police custody, this Court is inclined to grant bail to this petitioner by imposing certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 XIV Metropolitan Magistrate, Egmore, and on further conditions that:-

[a] 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, daily at 10.30 a.m, until further orders.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

11/02/2019

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.

सत्यमेव जयते

TO

1 THE XIV METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI

5 THE INSPECTOR OF POLICE,
G-1, VEPERY POLICE STATION,
CHENNAI.

+2 CC to M/S.VENKATESH MOHANRAJ Advocate on payment of necessary
charges SR.NO.2923

+1 CC to M/S.K.BALASUBRAMANIAM Advocate on payment of
necessary charges SR.NO.2941

CRL OP.2627/2019

Date :11/02/2019

cm 11/02/2019



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