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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9030 of 2019

N. Jabarathinam,
S/o.Nesaraj Abraham

... Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
Central Crime Branch-I, Chennai,
Crime No.482/2018.

2. Kamalakannan
S/o. Ganapathy,
No.133, Vivekanantha Nagar,
1st Street Kodungaiyur,
Chennai-600 118.

... Respondent

Prayer: Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. to cancel the bail granted by the learned Metropolitan Magistrate, Special Magistrate for CCB and CBCID cases, Egmore, Chennai in Crl.M.P.No.7246 of 2018 dated 26.12.2018 to the 2nd respondent herein.

For Petitioner : Mr.S.Suresh

For Respondent-1 : Mrs.M.Prabhavathi
Additional Public Prosecutor

For Respondent-2 : Mr.G.Kalidasan

O R D E R

This petition has been filed to cancel the bail granted to the second respondent in Crl.M.P.No.7246 of 2018 by an order dated 26.12.2018 on the file of the learned Metropolitan Magistrate-Special Magistrate for CCB and CBCID cases, Egmore, Chennai.



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2. The learned Counsel for the petitioner submitted that the petitioner had lodged a complaint with an allegation that the second respondent have cheated the petitioner to the tune of Rs.1,86,62,500 before the Central Crime Branch, Chennai and the said complaint was registered in Crime No.482 of 2018 for the offences under Sections 406, 419, 464, 465, 467, 468, 420 read with 120(B) of IPC as against eleven accused persons in which, the second respondent arrayed as a first accused. Thereafter, the second respondent/A1 was arrested and remanded to judicial custody on 19.11.2018. He filed bail petition in CrI.M.P.No.7246 of 2018 and the learned Metropolitan Magistrate, Special Magistrate for CCB and CBCID cases, Egmore, Chennai, was pleased to grant bail by an order dated 26.12.2018 and imposed conditions in which one of the condition is that the petitioner shall deposit a title deed worth Rs.2 Crore which stands in his name or his wife or his relatives or his friends. The friend of the second respondent T.S.Rajasekar helped the second respondent and furnished the release deed executed in his favour and the same was registered as document No.5452 of 2010. The said deed was deposited and the sureties were executed as directed by the Court below and the second respondent was released on bail.

2.1. The learned Counsel further submitted that after verification, they found that the said deed is already a fabricated one against which a case has already been registered in Crime No.313 of 2011 by the Central Crime Branch, Chennai and the said persons T.S.Rasasekar is the main accused in that case. Again the said fabricated document has been produced before the execution court and executed sureties. Therefore, again and again second respondent committed same kind of similar offences. The second respondent has colluded with other accused and played fraud with the Court. Therefore, he sought for cancelling bail granted to the second respondent.

3. The learned Counsel for the second respondent submitted that the second respondent arrayed as a first accused. The second respondent did not know the validity and genuineness of the document produced for by his friend T.S.Rajasekar before the execution Court as directed by the bail Court. He further submitted that insofar as the other conditions are concerned, he is fully complying with the conditions and also co-operating with the investigation conducted by the first respondent. Therefore, he pays for dismissal of the petition.

4. The learned Additional Public Prosecutor submitted that the release deed document executed by the second respondent is a fabricated one. In fact the document which was produced by the second respondent through his friend is already a fabricated one and in this regard, a case was already registered against T.S.Rajasekar, who produced the document in Crime No.313 of 2011



on the file of the Central Crime Branch, Chennai. They have cheated the Court, by producing the same fabricated document again before the Court below and on the said surety, the second respondent was released on bail. She further submitted that T.S.Rajasekar was already arrested in the said Crime NO.313 of 2011 and later released on bail.

5. Heard Mr.Suresh, learned Counsel for the petitioner, Mrs.Prabhavathi, learned Additional Public Prosecutor appearing for the first respondent police and Mr.G.Kalidasan, learned Counsel for the Second respondent.

6. This petition has been filed to cancel the bail granted to the second respondent by an order dated 26.12.2018 in CrI.M.P.No.7246 of 2019 on the file of the learned Metropolitan Magistrate, Special Magistrate for CCB and CBCID cases, Egmore, Chennai. Admittedly, the second respondent was granted bail on the following conditions;

6. The petitioner has come forward with the third bail application . The petitioner is in judicial custody for the past 38 days. The respondent has also taken custody of the petitioner for 2 days, and thoroughly interrogated in him. The entire case rest upon documentary evidence. The material portion of the investigation is almost completed and respondent has recovered the property and also recorded the confession of the petitioner. Therefore further judicial custody of the petitioner is unnecessary in this case. Under these circumstance, this Court is inclined to enlarged the petitioner on bail on the following conditions;

(i) The petitioner shall execute the bond for Rs.1,00,000/- to the satisfaction of this Court.

(ii) The petitioner shall furnished two sureties for a like sum of Rs.10,000/- to the satisfaction of this Court.

(iii) The petitioner shall deposit title deeds worth Rs.2 crores which stands in the name of the petitioner or his wife or his relatives or his friends.

(iv) The petitioner shall report before the respondent police daily at 10.30 A.M. until further orders.

(v) The petitioner shall produce copy of Aadhar Card or any other Identity Cards to show permanent place of residence.



7. It is seen that the second respondent has executed two sureties and also produced the original documents of release deed executed in favour of T.S.Rajasekar before the concern Court and executed sureties as directed by the bail Court. Thereafter, on verification of the document produced by the second respondent through his friend registered in document No.5452 of 2010 is a fabricated one and forged the signature of the Registrar. Infact the said document was already involved in Crime No.313 of 2011 in which the said T.S.Rajasekar is an accused and again the second respondent produced the very same document and played fraud on the Court which is highly condemnable. On this ground alone, the second respondent is not entitled to enjoy the bail order.

8. It is also seen that the bail court granted bail to the second respondent on condition that the petitioner shall deposit a title deed to the worth of Rs.2 Crores which stands in the name of the petitioner or his wife or his relatives or his friends. Utilizing the circumstances, the second respondent produced the fabricated document stands in his friend's name and executed surety. Therefore, the second respondent has committed very serious offence thereby cheated the Court. With the above discussions, this Court is inclined to cancel the bail granted to the second respondent.

9. Accordingly, this Criminal Original Petition is allowed and the bail granted to the second respondent in Crl.M.P.No.7246 of 2018 by an order dated 26.12.2018 on the file of the learned Metropolitan Magistrate, Special Magistrate for CCB and CBCID cases, Egmore, Chennai, is hereby cancelled. The first respondent is directed to secure the second respondent and complete the investigation and file a final report in Crime No.482 of 2018 within a period of three months from the date on which the order copy made ready.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Central Crime Branch-I,
Chennai.
(Crime No.482/2018)



2. The Public Prosecutor,
High Court, Madras.

3. The Metropolitan Magistrate,
Special magistrate for CCB and CBCID cases,
Egmore, Chennai.

+1cc to Mr.G.Kalidasan, Advocate, S.R.No.53782

+1cc to Mr.S.Suresh, Advocate, S.R.No.53281

Cr1.O.P.No.9030 of 2019

NRL (CO)

RRS (13/08/2019)