



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/12/2019

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.17590 of 2019

State through
The Inspector of Police,
ALGSC (DCB),
Madurai District.
(In Crime No.36/2018).

... Petitioner/Respondent

Vs

Bhvunraj,

... Respondent/Complainant

M.V.Johnson

... Petitioner/Defacto Complainant
in CRL MP(MD)No.10752 of 2019
in CRL OP(MD)No.17590 of 2019

For Petitioner : M/s. Public Prosecutor,
For Respondent : Mr.C.Arumugam, Advocate
For Intervener : Mr.I.Pinaygash, Advocate

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

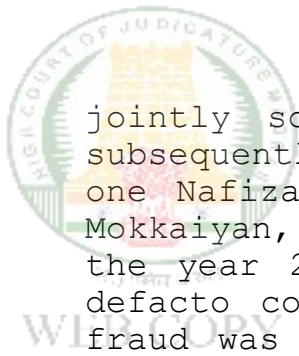
PRAYER :-

To cancel the bail granted to the Respondent / Petitioner in Crl.M.P.No.306/2018 dated 17.12.2018 on the file of the Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of PUBLIC PROSECUTOR for the petitioner and of Mr.C.Arumugam, Advocate for the respondent,

Heard the learned counsel appearing for the petitioner, the learned counsel for the Intervener and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The property in question belonged to one Mokkaian. The said Mokkaian died way back in the year 1998. Following his demise, the property devolved on his son Pounraj and his wife. They



jointly sold the property in favour of one Sivasankaran. Who subsequently sold the same in favour of one Balamurugan and from him one Nafiza Banu purchased. While so, impersonating the deceased Mokkaiyan, Bhuvanraj had sold the property in favour of one Bose in the year 2007. Bose in turn sold the property in favour of the defacto complainant. After the defacto complainant realised that fraud was played on him, the case on hand came to be registered. Bose was arrested and he was later released on bail by this Court after he deposited a sum of Rs.4,50,000/- to the credit of the Crime No.36 of 2018.

3.In the meanwhile, the prosecution has taken out this Criminal Original Petition for cancelling the bail granted in favour of the A1 (Bhuvanraj). It is seen that Bhuvanraj spent hardly 7 days in prison. The bail was granted way back in December, 2018.

4.I am of the view that it will not be just and proper to set aside the same at this point of time. From a perusal of the facts on record, I am satisfied that a clear case of impersonation has been made out. Therefore, the prosecution ought to file a final report without any delay. There is nothing on record to indicate that the offending document was sent for forensic analysis for obtaining any expert opinion. The case was registered way back in the year 2018. More than one year has elapsed. It is unfortunate that final report has not been filed.

5.The case was registered way back on 07.12.2018. Thumb impression was taken only on 01.12.2019 and sent for expert opinion on 04.12.2019. The delay on the part of the police deserves to be censured. The Superintendent of Police (Rural), Madurai is directed to call for an explanation from the investigation officer as to why there was a delay in this case. In any event, final report shall be filed within a period of three months. Since the issue regarding the constitution of special Court is pending consideration before the Hon'ble Supreme Court, the final report shall be filed before the Regular Court, if the interim order is still in force. The concerned Court will take the report on file without any delay and the entire trial will be fast tracked. It is very clear that commission of impersonation is so evident and apparent. Yet these are only prima facie observations. The trial will be disposed of without being influenced by this observations.

6.Accordingly, this Criminal Original Petition is dismissed.

sd/-
18/12/2019

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE SPECIAL JUDICIAL MAGISTRATE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF LAND GRABBING CASES,
MADURAI.

2. THE SUPERINTENDENT OF POLICE (RURAL),
MADURAI.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.VADIVEL, Advocate (SR-22168[I] dated 19/12/2019)

ORDER

IN

CRL OP(MD) No.17590 of 2019

Date :18/12/2019

PNN

AE/PN/SAR-III (09.01.2020) 3P 5C