

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.O.P.No.2634 of 2020

Loganathan

... Petitioner/Accused (A1)

Vs

State by

The Inspector of Police

S.H.O., D.C. P Police Station

Cuddalore.

... Respondent/Complainant

Prayer :- Criminal Original Petition filed under Section 439(1) (b) of Criminal Procedure Code, praying that the first condition of the bail order imposed by the Judicial Magistrate No.III, District Munsif cum Judicial Magistrate (FAC) Kurunjipadi, Cuddalore in Crl.M.P.No.13/2020 filed in Cr.No.29/19 dated 22.01.2020, directing the petitioner to execute the bond for Rs.50,000/- for himself with two sureties for a sum of Rs.10,00,000/- each (ten lakhs only) and produce the original property document into the Court with Revenue Solvency Certificate and sign before the Court for two times daily at 10.00 a.m., and 5.00 p.m., until further orders, may be modified.

For Petitioner : Mr.V.Sambamurthy

For Respondent : Mrs.S.Thankira

Government Advocate (Criminal Side)

ORDER

The present petition is filed to modify the condition No.1 imposed by the learned Judicial Magistrate No.III, Cuddalore, District Munsif cum Judicial Magistrate (FAC) Kurunjipadi, Cuddalore in Crl.M.P.No.13/2020, dated 22.01.2020, while granting bail to the petitioner.

2. The petitioner herein is arrayed as A1 in Crime No.29/2019 on the file of the respondent police, and he has been in judicial custody from 13.11.2019. He faces accusation for the offences under Section 423, 467, 468, 471 of IPC., r/w.Section82(a) of the Registration Act, 1908. One of the condition imposed by the learned Magistrate, while granting bail to the petitioner was that the petitioner has to execute a bond for Rs.50,000/- with two sureties for the sum of Rs.10,00,000/- each and production of original property documents into the

Court with Revenue Solvency Certificate and sign in Court daily two times at 10.00 a.m., and 5.00 p.m., until further orders. To modify the said condition, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that insofar as the other accused persons were concerned, they have been granted anticipatory bail by this Court in CrI.OP.Nos.32645 and 32696 of 2019. He further submitted that the petitioner is aged 70 years, and he has been suffering from diabetic and high blood pressure, and though bail was granted to the petitioner, since the condition imposed by the learned Magistrate is onerous and rigorous, he could not comply with the condition imposed by the trial Court, and that he has been detained in judicial custody for more than 100 days now. He further added that the petitioner did not possess any immovable property, other than the one, which is the subject matter in this case. Hence, the petitioner is before this Court.

4. To understand the case of the prosecution, the facts as stated in CrI.OP.Nos.32645 and 32696 of 2019, may now be reproduced :

" The case of the prosecution in Crime No.29/2019 is that one Natesan owns a piece of property/land measuring to an extent of 1 acre. The said Natesan died during the year 1993, and his wife expired during the year 2002. It is stated that the couple had five children, two of them are sons. One of the sons is the father of the defacto complainant, who is now dead, and the other son is arrayed as A1.

Alleging that all the five children of Natesan have acquired equal share in the said property, a suit for partition in O.S.No.12 of 2010 was laid. In that suit, A1 was arrayed as first defendant. One Vaithiyalingam was arrayed as a second defendant. He was happened to be arrayed as defendant, because sometime in 2006, A1 had sold 10 cents to him. Be that as it may, on 29.07.2019, A1 executed two documents covering the remaining extent. One is a settlement deed executed in favour of his wife (Mahadevi), and another 20 cents to one Jeyanthi, who are arrayed as the accused in the subsequent FIR. A4 is the Sub Registrar, who registered both the settlement deed and sale deed executed by the petitioner (A1).

5. In view of the fact that bail itself is passed under Section 167 Cr.P.C., this Court deems it appropriate to modify the condition No.1 imposed by the learned Judicial Magistrate

No.III, Cuddalore, District Munsif cum Judicial Magistrate (FAC) Kurunjipadi, Cuddalore in Crl.M.P.No.13/2020, only to the extent of producing the sureties, and accordingly, the petitioner shall produce two sureties, each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only).

6. This Criminal Original Petition is disposed of accordingly.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

ds

To:

1. The Judicial Magistrate No.III, Cuddalore, District Munsif cum Judicial Magistrate (FAC) Kurunjipadi, Cuddalore.
2. The Chief Judicial Magistrate, Cuddalore
3. The Public Prosecutor High Court, Madras.

KK(CO)
SP(28/02/2020)

Crl.O.P.No.2634 of 2020

सत्यमेव जयते

WEB COPY