

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No. 15450 of 2020

Vijayakumar

... Petitioner

Vs.

State represented by,
The Inspector of Police,
D' Nagar Police Station,
Pondicherry
(Crime No. 6 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest by the respondent police in Crime No.06 of 2020 on the file of the respondent police.

For Petitioner : Mr.P.Rajkumar Pandian

For Respondent : Mr.Balamurugane
Additional Public Prosecutor,
Puducherry

O R D E R

(This Case has been heard through Video Conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 509, r/w 34 of IPC in Crime No.6 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Varalakshmi is that she is a tenant for the past 18 years residing at Door No.25, Nisar Illam, Pettaiyanchathiram Kamaraj Salai, Puducherry, Dhanvanthiri Nagar. While so, the accused one Vijayakumar/A1 had fabricated a Special Power of Attorney as if it was given by the owner of the property and had filed RCOP.No.13 of 2013 and on a perusal of the Power of Attorney, it was found that it is a fabricated one. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner is related to Mrs.Jothimani. The defacto complainant and his family members are tenants in the premises owned by the said Jothimani and there was a tenancy dispute. The said Jothimani has granted Special Power of Attorney in favour of the petitioner to take legal steps to evict the defacto complainant from the premises and that RCOP is pending. While so, a false complaint has been given as if the petitioner filed RCOP based on fabricated Special Power of Attorney. He would submit that if at all the Power of Attorney is fabricated one, the defacto complainant can very well file an appropriate petition before the concerned Court, whereas, he has preferred the present complaint. However, based on the complaint filed before the Judicial Magistrate and the reference under Section No.156(3) Cr.P.C., the case has been registered. He would submit that a false complaint has been given only to drag on the RCOP proceedings. Further, even now very recently on 27.09.2020, the said owner of the property M/s.Jothimani who is now residing in United States of America has sent a Power of Attorney confirming the earlier power granted to the petitioner. Further, he submitted that the defacto complainant has not paid the rent till date and in the petition filed by the petitioner on behalf of the owner of the property under section 11(4) of the Puducherry Buildings Lease and Rent Control Act 1969 proceedings for arrears of rent has been ordered in favour of the petitioner's Principal Jothimani. Against the order the defacto complainant has also filed CRP and the same was dismissed. Further the learned counsel for the petitioner submits that the Special Power of Attorney which has been alleged to be forged is already presented before the Court. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor (Puducherry) would vehemently oppose the petition stating that based on the fabricated Power of Attorney, the petitioner has filed the RCOP against the defacto complainant.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which a copy of the order is made ready before the learned Judicial Magistrate-I, Puducherry, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
12/10/2020

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.

TO

1 THE JUDICIAL MAGISTRATE NO.I,
PUDUCHERRY.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
D' NAGAR POLICE STATION,

PONDICHERRY

<https://hcservices.ecourts.gov.in/hcservices/>

+1CC to M/S. P.RAJKUMAR PANDIAN Advocate on payment of
necessary charges SR NO.7020

CRL OP.15450/2020

Date :12/10/2020

MK:23/10/2020



WEB COPY