

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.16706 of 2020

C.M.Chinnasamy

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Central Crime Branch,
Salem
(Crime No.6 of 2020) Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.6 of 2020 on the file of the The Inspector of Police, Central Crime Branch, Salem.

For Petitioner : Mr.D.Manuel

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 14.03.2020 for the offences punishable under Section 465, 468, 471 and 120B of IPC, in Crime No.6 of 2020 on the file of the respondent police, seeks bail.

2.The learned counsel appearing for the petitioner would submit that the petitioner was originally arrested and remanded to judicial custody by the respondent police on 14.03.2020 for the alleged offences under Section 465, 468, 471 and 120B of IPC. He would further submit that the application for bail has been filed by the petitioner in Crl.O.P.No.7464 of 2020 and this Court vide order dated 07.05.2020 was pleased to grant Interim Bail to the petitioner with certain conditions and one of the conditions was that the petitioner shall cancel the sale agreement executed in favour of A3 to A6 within a period of three weeks from the date of receipt of a copy of the order. He would further submit that the petitioner was ready and willing to comply with the order of this Court, however,

A3 to A6 did not come along with the petitioner for cancellation of the sale agreement and A4 and A6 have also filed a suit in O.S.No.268 of 2020 for declaration, declaring that the registered sale agreement dated 21.06.2016 in document No.1601 of 2016 as void ab-initio. Since A3 to A6 did not come forward for the cancellation of the sale agreement, the petitioner was not able to comply with the conditions imposed by this Court, thereby, the Interim Bail granted to the petitioner was cancelled and the petitioner was secured by the respondent police on 18.09.2020. The petitioner would further submit that initially the petitioner was in custody from 14.03.2020 to 07.05.2020 for 55 days and after the interim bail was cancelled, the petitioner was secured and remanded to judicial custody on 18.09.2020 and he is in custody for more than 46 days and the petitioner has been totally suffering incarceration for more than 100 days. He would further submit that the respondent police have not filed the final report yet. He would further submit that the petitioner could not comply with the condition imposed by this Court in CrI.O.P.No.7464 of 2020 dated 07.05.2020 in paragraph 7(3) due to the non co-operation of A3 to A6. He would further submit that the petitioner has also filed an affidavit before this Court stating that he is ready to cancel the sale deed and that he will not claim any rights over the said property and thereby he would seek for bail.

4.The learned Government Advocate (CrI.Side) appearing for the respondent would vehemently oppose stating that the petitioner was initially granted Interim Bail on condition that the petitioner shall cancel the sale agreement executed in favour of A3 to A6 within a period of three weeks from the date of receipt of a copy of this order. Since the petitioner did not comply with the condition imposed by this Court, the petitioner was secured on 18.09.2020. He would further submit that the petitioner is in custody totally for more than 100 days and the final report has not been filed so far.

5.Heard the learned Counsel on either side. Perused the F.I.R. and also the affidavit of undertaking filed by the petitioner and other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner and also considering the affidavit of undertaking filed by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate Court No.V, Salem,** and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
03/11/2020

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.V, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM.

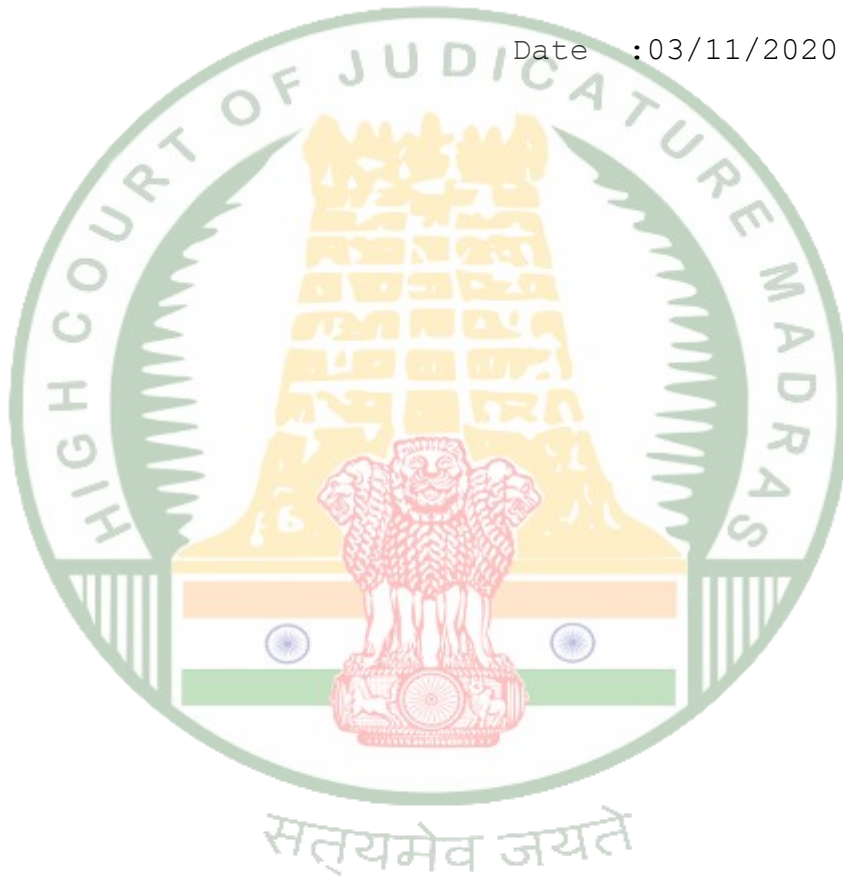
5 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

CC to M/S. D.MANUEL Advocate on payment of necessary charges

CRL OP.16706/2020

Date :03/11/2020

TA-04/11/2020



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