

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

CORAM :

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

CRL.O.P.No.17101 of 2020

E.Prithiviraj

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Central Crime Branch - I,
Team XVI, Egmore, Chennai-600 008.
(Crime No.90 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.90 of 2020 on the file of the respondent.

For Petitioner : Mr.R.Shanmugasundaram. Senior Counsel
for Mr.John J.Raja Singh

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 06.10.2020 for the offences punishable under Sections 419, 465, 467, 468, 471 and 120 B of IPC, 1860, in Crime No.90 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. R.Shivakumar is that he had purchased the property measuring to 4800 sq.ft. at Madipakkam situated at Plot No.5087, 6th Street, Ram Nagar North Extension, Puzhthivakkam, Chennai 600 091. vide document No.612 of 1983 and he was in continuous possession there of. He had also obtained a computer patta in his name. While so, during November 2019, he received an information that somebody had attempted to trespass into the property and on verification, it was found that somebody had impersonated as him and given a Power of Attorney dated 20.12.2018 to one Saravanakumar Adhilingam and it was registered as document No.7623 of 2018. Pursuant to the forged Power of Attorney, the property had been sold to one Venkateshwara Prasath on 10.05.2019 vide document No.3006 of 2019, and one Sivachandru and Kumar had identified the parties and also signed as witnesses to the fraudulent sale deed. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that one person claiming himself to be R.Shivakumar had impersonated and executed a Power of Attorney in favour of one Saravanakumar Adhilingam and based on the said forged Power of Attorney, the said Saravanakumar Adhilingam had sold the property to one Venkateshwara Prasath / A3 in this case. The learned counsel would further submit that the petitioner is a business man, running a water packaging company and the said Saravanakumar Adhilingam was working under him, other than that, he has no connection with the said Saravanakumar Adhilingam. However, the said Saravanakumar Adhilingam is alleged to have given a confession statement that only on the instruction of the petitioner, he had stood as the POA to the impersonator. He would further submit that the name of the petitioner does not find place in the F.I.R. and no reference has been made in any of the documents connected to this case. However based on the confession of Saravanakumar Adhilingam the petitioner has been arrested and remanded to judicial custody. He would further submit that the said Saravanakumar Adhilingam has been enlarged on bail and the entire case of the prosecution is borne out by documents. He would further submit that the petitioner was arrested on 06.10.2020 and he is in custody for more than one month and that there may not be any need for further judicial custody.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that though the name of the petitioner does not find place in the F.I.R. or in any of the documents, he is the master mind in the transaction and he is the employer of one Saravanakumar Adhilingam and he had introduced the said Saravanakumar Adhilingam to the impersonator, based on which, the person who has impersonated as R.Shivakumar / the defacto complainant herein had executed the Power of Attorney in favour of Saravanakumar Adhilingam and based on the forged Power of Attorney, the property belonging to the defacto complainant had been sold to one Venkateshwara Prasath and one Sivachandru and Kumar have identified the parties and they have witnessed the documents. He would further submit Saravanakumar Adhilingam has been arrested and enlarged on bail and other accused are still absconding.

5.Heard the learned Counsel on either side. Perused F.I.R. 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 of the period of incarceration suffered 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.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned M.M. (Land Grabbing-II), Allikulam, Egmore, Chennai, 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. until further orders.

(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/-

02/11/2020

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 METROPOLITAN MAGISTRATE
(LAND GRABBING-II), ALLIKULAM, EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH -I,
TEAM XVI, EGMORE, CHENNAI 600 008

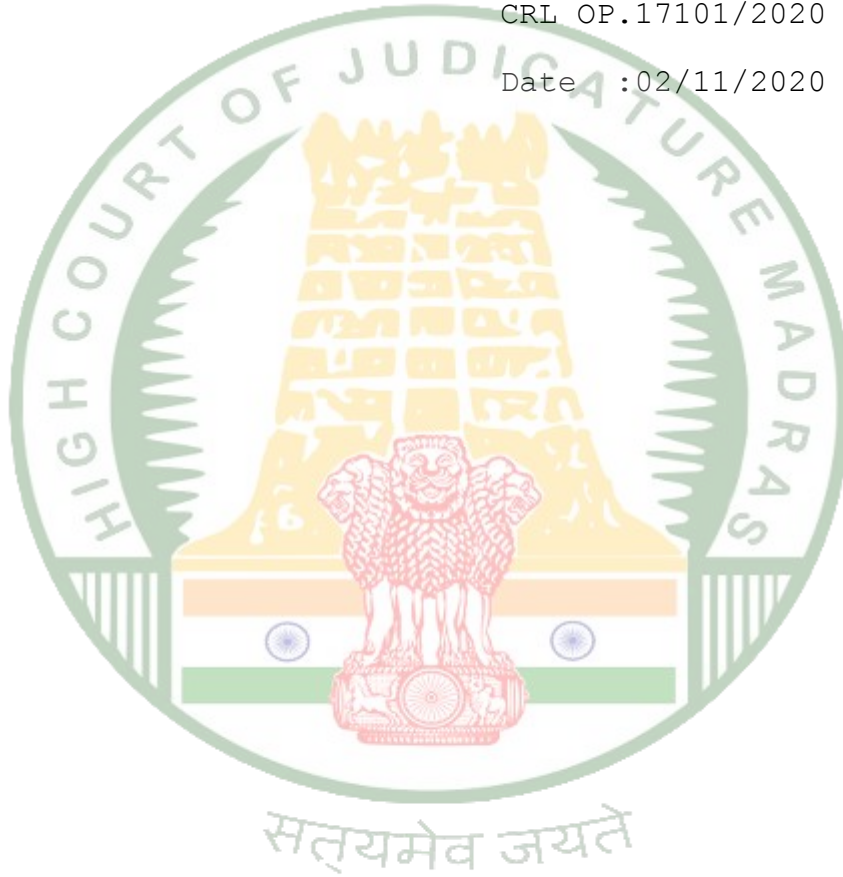
5 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET, CHENNAI

+3 CC to M/S. S.JOHN J. RAJA SINGH Advocate on payment of
necessary charges SR.NO.7146

CRL OP.17101/2020

Date :02/11/2020

RVR 03/11/2020



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