

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

CRL.O.P.No.18350 of 2020

G.Shanmugam

... Petitioner / A- 1

Vs.

States Rep. by
The Inspector of Police,
Central Crime Branch,
Vepery, Chennai - 600 007.

... Respondent

Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, to enlarge the petitioner on bail in the event of his arrest in Crime No.187 of 2019, pending investigation on the file of the respondent police.

For Petitioner : Mr.K.Thilageswaran

For Respondent : M/s.Saradha Devi
Government Advocate

For Intervenor : Mr.B.Vijay
For Mr.K.Nandhakumar

ORDER

The 1st accused in Crime No.187 of 2019 who is said to have been committed an offence under Sections 409, 465, 468 & 471 of I.P.C. and for which, the said Crime Number has been registered by the respondent police has filed the present application seeking anticipatory bail.

2. The earlier anticipatory bail application had been dismissed by this Court on 05.09.2019. The said application was filed not only by this petitioner but also by his son who was the 2nd accused, S.Karunakaran.

3. The case of the prosecution is that the petitioners along with several others had fraudulently fabricated documents by forgery of signatures and fabricated a sale deed for grabbing the property of the defacto compliant. They also later threatened to kill the defacto complainant and his family. Under those circumstances, compliant was lodged before the respondent police.

4. The entire issue surrounds the property at Old No.127, New No.40, Medavakkam Village, comprised in Survey No.362/1B and 368/38A, measuring an extent of 63 ½ cents. This land was originally owned by one K.Arumugam. The petitioner herein entered into an agreement of sale on 13.04.2005. It is claimed that he had paid the entire sale consideration to the Power of Attorney. The property was then sold to the son of the present petitioner, S.Karunakaran. The Power of Attorney was said to have been executed on 23.08.2006 and it

was registered as Doc.No.2085 of 2006 on the file of the Sub Registrar Office, South Chennai. Thereafter, another Power of Attorney was executed in favour of the brother of the present petitioner, Thirunavukkarasu dated 23.08.2006. This Power of Attorney was also registered on the file of the Sub Registrar Office, South Chennai. A sale deed was also executed on 27.08.2018 which was registered as Doc.No.9415 of 2018 on the file of the Joint - I Registrar, South Chennai.

5. It is the claim of the petitioner that records have also been mutated. It is also claimed that the said Arumugam and others had received the entire sale consideration. These facts were disputed by the defacto complainant who also filed CrI.M.P.No.7840 of 2020. It is stated that the Power of Attorney is a forged document, the Sale Deed is a forged document and the Life Certificate is a forged document.

6. This Court had dismissed the earlier application, since the original Sale Deed dated 27.08.2018 registered as Doc.No.9415 of 2018, the original Life Certificate and the original Power of Attorney dated 23.08.2006 which had been registered as Doc.No.2085 of 2006 have not been produced. Moreover, the petitioner and his son had not participated in the investigation. Subsequently, the son, S.Karunakaran, of the present petitioner who was the second accused had been taken into custody and it is informed that he had

been granted bail.

7. It is also informed that as directed, the said documents in a sealed cover containing the Original Sale deed, Original Life certificate and Original Power of Attorney have also been produced before the Metropolitan Magistrate No - II, Special Court for Exclusive Trial of Land Grabbing Cases, Egmore.

8. The learned counsel Mr.K.Thilageswaran therefore stated that the petitioner had come forward and had abided with the conditions laid down and also produced the documents in a sealed cover before the Magistrate.

9. The learned Government Advocate on the Criminal side acknowledged the said fact, but however, stated that there is a direction that the sealed cover can be opened only subject to the outcome of the Special Leave Petition now pending before the Hon'ble Supreme Court.

10. Mr.B.Vijay, learned counsel for the Intervenor, would state that however, the Court has to examine the consideration fixed in the original Sale Deed in the year 2005 and as fixed in the year 2018 and also stated that the actual consideration has not been paid.

11. It will be highly inappropriate on my part to examine the facts in

detail and it is sufficient to note that the petitioner had come forward to deposit the documents as directed to show bonafide. The petitioner should also exhibit bonafide during the course of investigation and cooperate during the investigation.

12. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail subject to certain conditions.

13. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the Metropolitan Magistrate No - II, Special Court for Exclusive Trial of Land Grabbing Cases, Egmore, 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:

[a] the petitioner and 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.

[b] the petitioner shall report before the concerned Magistrate Court every day for a period of five working days successfully and thereafter every

Monday until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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]**.

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

10.12.2020

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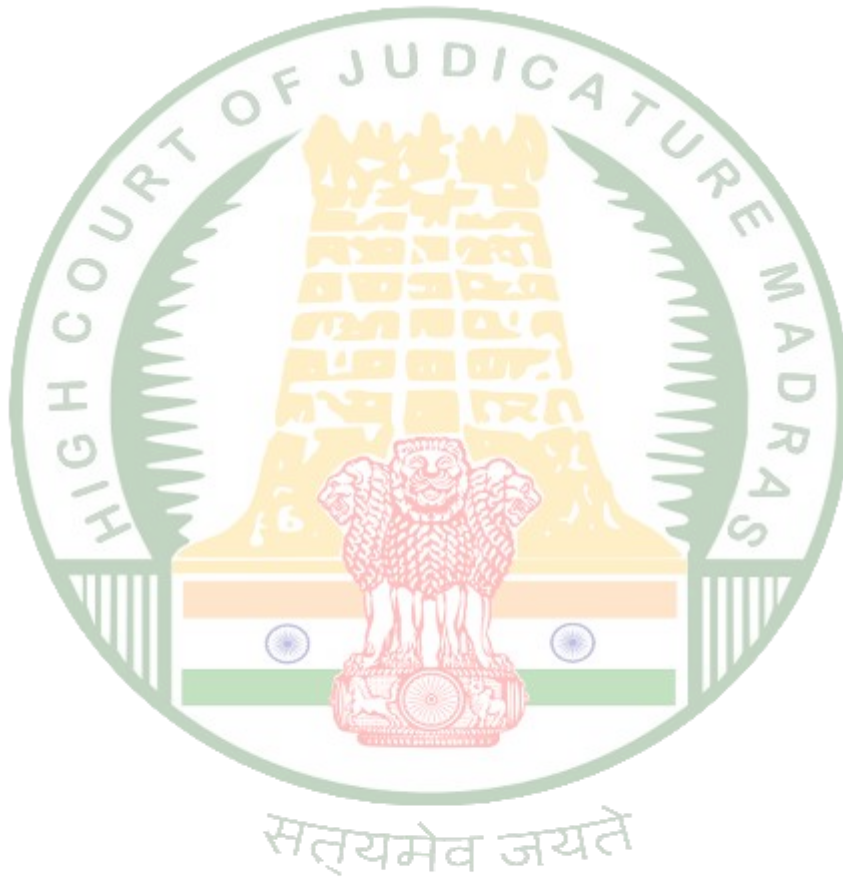
Index : yes/no

Internet : yes/no

To

1. The Inspector of Police, Central Crime Branch, Vepery, Chennai - 600 007.
2. The Public Prosecutor, High Court, Madras.

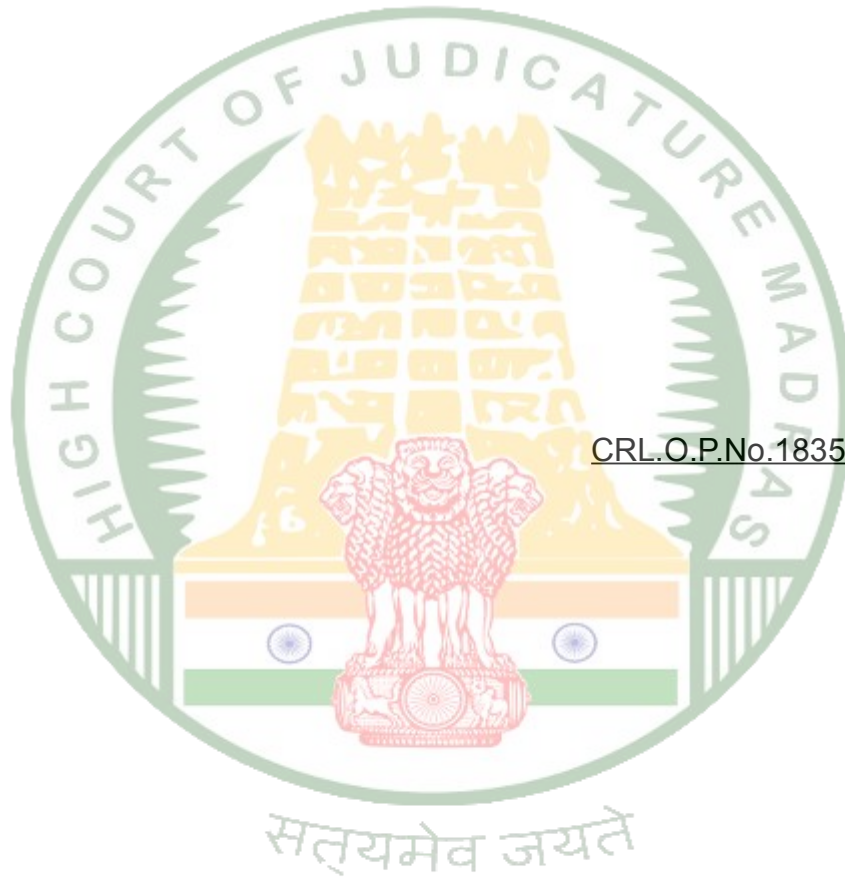
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C.V.KARTHIKEYAN, J.

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