



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 14/12/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD).No.14621 of 2020

Chelladurai

... Petitioner/2nd Accused

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Sivagangai District.
Crime No.16 of 2020.

... Respondent/Complainant

For Petitioner : Mr.D.Venkatesh, Advocate.

For Respondent : Mrs.M.Ananthadevi,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in Crime No.16 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A2, apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 419, 468, 471, 420 & 120(B) IPC, in Crime No.16 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that one Subramanian, S/o.Ganesan is the absolute owner of the subject property. While being so, the first accused impersonated the said Subramanian and executed a power of attorney in his favour on 12.07.2010 and the same was registered vide document No.407/2010. On the strength of power of attorney again the first accused executed a sale deed on 25.10.2010 in favour of A2 vide document No.2397/2010. In turn, the second accused executed a sale deed in favour of A3 on 22.12.2010 vide document No.2867/2010. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that there are totally three accused, in which the petitioner is arrayed as A2. Even according to the case of the prosecution the first accused only impersonated the said Subramanian and executed a power of attorney in his favour. As far as the petitioner is



concerned he is the *bona fied* purchaser for a valid sale consideration. Therefore he is nothing to do with the offence as alleged by the prosecution. He further submitted that originally the defacto complainant did not lodge any complaint and only the Sub Registrar (Administration) Karaikudi, lodged a complaint. Therefore, custodial interrogation of the petitioner do not require in this case.

4.The learned Government Advocate (Crl.side) submitted that there are totally three accused in which the petitioner is arrayed as A2. The first accused and the said Subramanian S/o.Ganesan were the partners and were doing business. While they are doing business, the said Subramanian handed over the original document with the first accused. Utilizing the said circumstances, the first accused impersonated the said Subramanian and executed a power of attorney in his favour. On the strength of the power of attorney, the first accused executed a sale deed in favour of the second accused, who is none other than his friend, who in turn, executed a sale deed in favour of the third accused.

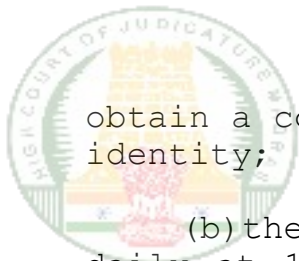
5.Admittedly, the first accused and one Subramanian, S/o.Ganesan had a partnership business during which period the first accused was in possession of the original parent document of the subject property. Thereafter, the power of attorney executed in his favour, by impersonating the said Subramanian. Therefore, he subsequently purchased the property of the first accused on the strength of power of attorney by the registered sale deed, dated 25.10.2010 vide document No.2397 of 2010.

6.It is also seen that the said Subramanian, S/o.Ganesan has filed a Writ Petition before this Court in W.P.(MD)No.1184 of 2018, in which the District Registrar, Karaikudi has filed a counter and stated that the first accused created those documents to cheat the said Subramanian.

7.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Sivagangai, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner and the sureties shall affix their photographs and impressions 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 respondent police daily at 10.00 a.m. for a period of three weeks and thereafter as and when required for interrogation;

(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]; and;

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

sd/-

14/12/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, SIVAGANGAI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.14621 of 2020

Date :14/12/2020

VSD

TK/PN/SAR.3/21.12.2020/3P/5C

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