



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

Date : 21/12/2020

PRESENT

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

CRL OP(MD). No.15296 of 2020

Malliga ... Petitioner/Accused No.1

Vs

State Rep. by
The Inspector of Police,
District Crime Branch,
Thoothukudi District, Thoothukudi.
(Crime No. 16 of 2020).

... Respondent/Complainant

For Petitioner : M/s.T.Vadivelan,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

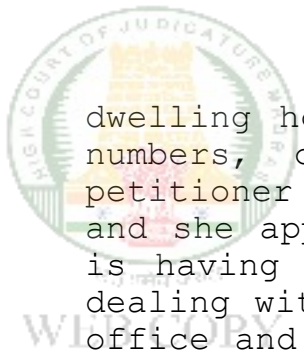
PRAYER :- For Bail in Crime No. 16 of 2020 on the file of the
respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial
custody on 06.11.2020 for the offences punishable under Sections
120(B), 406, 420, 465, 466, 467, 468, 471 and 472 of IPC on the file
of the respondent police seeks bail.

2.The case of the prosecution is that the Sub Registrar of
Komankudikkotai lodged a complaint before the respondent police in
which he has stated that the petitioner created forged written check
slip of the Sub Registrar officer along with the forged seal and
signature and produced the same before this Honourable Court in a
Writ Petition in WP(MD) No.9665 of 2020 as per the direction of the
Honourable Court the defacto complainant came to knowledge about the
occurrence and lodged the present complaint.

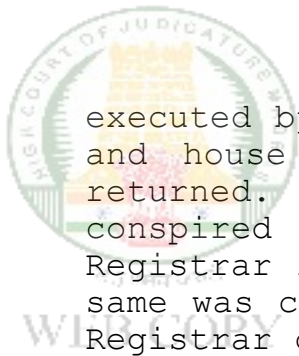
3.The learned counsel for the petitioner would submit that the
petitioner did not involve in any offence as alleged by the
prosecution . The petitioner's husband died due to illness before
that he executed Will in her favour in respect of Suburayapuram
S.F.No. 1086, 1552/10 and 1552/13 in which the



dwelling house of the petitioner is situated in above said survey numbers, other petitioner are attestors of the document. The petitioner wanted to sell her property on the basis of the said Will and she approached her council and he referred to one Andruss who is having office opposite to Sathankulam Sub Registrar Office and dealing with the matter relating to registration and the registrar office and she gave all documents to him in the month of June 2019 itself. The said Andruss advised the petitioner to get an order from the Court of law then only that Will can be registered in the registrar officer, but the counsel for the petitioner stated that without copy of refusal of the registration the court cannot entertain this matter and instructed to Andruss to obtain an order of refuse to registration from the registrar office. As such said Andruss gave an order as if he got the order of refuse the registration from the register office. He would also submit that the petitioner is in jail for more than 30 days, hence she may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that there are totally seven accused in this case and the petitioner herein is arrayed as A1. The defacto complainant is the Sub Registrar of Kommadikottai. On 19.10.2019 when he was in duty A1 went to that office to register a settlement deed in favour of her daughter/A2 based on the unregistered Will which was executed by her husband in favour of her, however the Sub Registrar refused to register the document since it was an unregistered Will, which is not valid in the eye of law and he returned the unregistered Will and settlement deed in and A1 filed a Writ Petition before the Honourable Madurai Bench of Madras High Court in WP(MD) No. 9665 of 2020 for direction with check slip containing the signature of the defacto complainant and the seal of Sub Registrar in the said Writ Petition the Hon'ble High Court issued notice to the defacto complainant and others and thereafter the defacto complainant appeared in person before the Lordship and when the Lordhsip asked the defacto complainant he stated that the signature found in the check slip is not his signature, he has not signed any paper regarding the settlement deed and subsequently the Lordship directed the Superintendent of Police to investigate the matter and after investigation only it came to know that the said Writ Petition was filed by this petitioner based on the forged check slip and the First Information Report has been registered by the District Crime Branch and further anticipatory bail of the co-accused were dismissed by this Court.

5. It is seen that there are totally seven accused in this case and the petitioner herein is arrayed as A1 and her husband is the absolute owner of the subject property. During his life time he executed Will in her favour and on the strength of the same she executed settlement deed in favour of own daughter. Settlement deed was presented for registration and thereafter the Sub Registrar refused the registration since settlement deed was



executed by the petitioner on the strength of the Un registered Will and house documents which were presented for registration was returned. Thereafter the petitioner along with other accused conspired together and fabricated rejection order as if the Sub Registrar rejected the registration of the settlement deed and the same was challenged before this Court. After issuing notice the Sub Registrar came to understand that the impugned order itself was not passed by him. According to the petitioner she only engaged counsel for getting permission from this Court for registration of settlement deed on the strength of the Will and she had no knowledge about the impugned order passed by the Sub Registrar. Further all the other accused persons were released on bail and the documents were returned.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Thoothukudi

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of four weeks and thereafter as and when required for interrogation.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

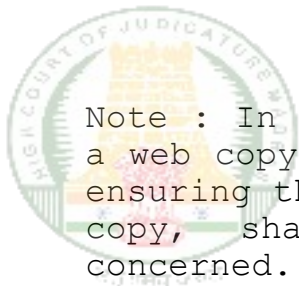
sd/-

21/12/2020

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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.

WEB COPY

TO

- 1 THE JUDICIAL MAGISTRATE NO.IV,
THOOTHUKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THOOTHUKUDI DISTRICT,
THOOTHUKUDI.
- 4 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, KOKKARAKULAM.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.15296 of 2020
Date :21/12/2020

AAV
JM/PN/SAR IV/21.12.2020/4P/6C