

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2091 of 2021

Rajendrakani

... Petitioner

-Vs-

The State of Tamil Nadu,
Rep by it's
The Inspector of Police,
Central Crime Branch (C.C.B)
Chennai.
(Crime No.318 of 2020)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of her arrest in Crime No.318 of 2020 is pending on the file of the respondent police.

For Petitioner : Mr.S.Shankar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest for the alleged offences under Sections 423, 464, 465, 466, 468, 471 and 120-B of IPC, in Crime No.318 of 2020, on the file of the respondent/Police, seeks anticipatory bail.

2.The case of the prosecution is that the property in Survey No.1/6 Part 1/8, 1/10 belongs to one Balasingh and Hilda Balasingh who claims to be the second wife of Balasingh. Earlier, the said Hilda Balasingh had executed a Power of Attorney in favour of this petitioner in the year 1991 and subsequently, this petitioner along with her son Sivabalan is in possession and enjoyment of the said property and they also constructed a house and they are paying all the revenue taxes including property tax. Further, this petitioner had executed a settlement deed in favour of her son Sivabalan. Under such circumstances, the defacto complainant one S.R.Ravi, who claims

to be the Power of Attorney of Devakumaran and Thiruvengadam, who purchased the above said property from the daughter of the first wife of Balasingh, a false complaint has been filed stating that they have forged the document i.e., Power of Attorney with an intention to grab the Property. Hence, the complaint was registered.

3.The learned counsel for the petitioner would submit that the property in Survey No.1/6 Part 1/8, 1/10 belongs to one Balasingh and the second wife of Balasingh had executed a Power of Attorney in favour of this petitioner in the year 1991. Further, the petitioner had executed a settlement deed in favour of her son Sivabalan. Thereafter, the defacto complainant one S.R.Ravi, who claims to be the Power of Attorney of Devakumaran and Thiruvengadam, He would further submit that earlier Devakumarn and Thiruvengadam had filed a Civil Suit in O.S.No.29 of 2010 on the file of the III Additional District Court at Thiruvallur, Poonamallee for declaration of title over the suit property and recovery of possession against one Hilita Balasingh and this petitioner. The suit has been dismissed by the trial Court by Judgment and decree dated 31.01.2013. He would further submit that thereafter the defacto complainant had filed a false complaint. He would further submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would further submit that co-accused has already been arrested and thereafter he was released on bail and there is no previous case pending as against the petitioner. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that originally the property in Survey No.1/6 Part 1/8, 1/10 belongs to one Balasingh and Hilita Balsingh who claims to be the second wife of Balasingh. Earlier, the said Hilita Balasingh had executed a Power of Attorney in favour of this petitioner in the year 1991. He would further submit that the investigation reveals that the first wife daughter had sold the property in favour of Devakumaran and Thiruvengadam and in turn the Power of Attorney was executed in favour of the defact complainant , hence he filed the complaint before the respondent police, a case has been registered.

5.Considering the rivals submissions on either side. On perusal of the FIR, it is seen that the defacto complainant claims to be a Power of Attorney and his principle, Devakumaran and Thiruvengadam had filed a suit in O.S.No.29 of 2010 for declaration of title over the suit property and recovery of possession against one Hilita Balasingh and this petitioner and the suit came to be dismissed, thereafter the present complaint was filed by their Power of Attorney

6. Considering the above facts this Court is of the opinion that as a civil suit between the parties, went against the defacto complainant and co-accused has already been arrested and thereafter he was released on bail and there is no previous case pending as against the petitioner, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the Special Court for the Exclusive Trial for Land Grabbing cases at Allikulam, Egmore, Chennai, 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 this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his 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 respondent Police 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].

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

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

-sd/-
15/02/2021

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 SPECIAL COURT FOR THE EXCLUSIVE TRIAL
FOR LAND GRABBING CASES AT ALLIKULAM,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH (C.C.B),
CHENNAI.

+1CC to M/S.S.SHANKAR Advocate on payment of necessary
charges SR NO.1667

CRL OP.2091/2021

Date :15/02/2021

MK:25/02/2021

सत्यमेव जयते

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