

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2557 of 2021

Dharmaraj

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
CCB-II Vepery,
Chennai.
(Crime No.79 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.79 of 2020 on the file of respondent police.

For Petitioner : Mr.S.N.Thangaraj
for Mr.L.N.Pragasam

For Respondent : Mrs.M. Prabavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are nine accused and the petitioner is arrayed as A9. The petitioner, who was arrested and remanded to judicial custody on 28.08.2020 for the offence punishable under Sections 419, 465, 467, 468 and 109 of I.P.C. in Crime No.79 of 2020, seeks bail.

2. The case of the prosecution is that the defacto complainant one Annadurai, claims to be owner of the property in Survey No.29/2A, situated at Sri Kamatchi Amman Nagar, Athivakkam Village, Redhills and A1 in this case impersonated himself as Annadurai and sold the property in favour of petitioner's wife, who is arrayed as A4. The petitioner is the attesting witness in the above said sale deed. Based on the complaint given by the defacto complainant, the criminal case was registered against the petitioner and accordingly, he was arrested and remanded to judicial custody on 15.12.2020. Now, the present petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner's wife is an innocent purchaser and he is the attester to the sale deed and they are not aware that the vendor is not the owner of the property. He would submit that he has been falsely implicated in this case and he is in jail for more than two months. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the attester in the sale deed and his wife is the purchaser, and both of them were made as accused. She would submit that some of the accused was granted anticipatory bail and no previous bad antecedents against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the petitioner is the attester to the sale deed, some of the accused was granted anticipatory bail, and also considering the period of incarceration suffered by the petitioner from 15.12.2020, 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 Judicial Magistrate No.II, Ponneri 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 as and when required for interrogation;

(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.

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

-sd/-
16/02/2021

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 JUDICIAL MAGISTRATE,
NO.II, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
SUB-JAIL, PONNERI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CCB-II, VEPERY, CHENNAI.

+1 CC to M/S.L.N.PRAGASAM Advocate on payment of necessary charges
SR.NO.1658

WEB COPY

CRL OP.2557/2021

Date :16/02/2021

cs 17/02/2021