

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.04.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19253 of 2020

S. Muralidharan

... Petitioner

Vs.

The Inspector of Police
District Crime Branch,
Thaiyar Kulam
Kanchipuram-631 501

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on anticipatory bail in the event of arrest by the respondent police in Crime No.39 of 2016.

For Petitioner : Mr.Venkaatesh Mahadevan

For Respondent : Mr.L.Charles Prekumar
Government Advocate

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 420, 406 and 34 IPC, in Crime No.39 of 2016, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant Shanthi W/o.Pandarinathan is that she is the owner of the properties at Peruduravu Village, Cheyyur Taluk, Kancheepuram District, in Survey No.227/1 and Survey No.268 and that one Sainath S/o.Sriram had approached her and obtained Power of Attorney stating that the properties would be sold to private parties and the amount would be paid to her. Believing the said Sainath, the defacto complainant had executed a registered Power of Attorney on 21.12.2012. The further allegations is that the said Sainath sold the properties to different parties and had not paid the amount to the defacto complainant who is the principal. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner had earlier filed a petition in Crl.O.P.No.16890 of 2020 without crime number and it was dismissed as withdrawn on

03.11.2021 with liberty to file a fresh application with crime number. Hence, the present petition has been filed with crime number seeking for anticipatory bail. He would submit that the petitioner is an innocent purchaser of the property. The defacto complainant had executed a General Power of Attorney in favour of one Sainath and the said Sainath had approached the petitioner and that the petitioner after verifying the encumbrance, had purchased the property after paying an amount of Rs.15,54,000/- and the sale deed was executed on 21.01.2013. Thereafter, Patta was also transferred in favour of the petitioner on 07.05.2013 and that the petitioner is in continuous possession from the date of purchase of the property i.e. from 21.01.2013. He would submit that the petitioner has paid the entire sale consideration to the Power of Attorney of the property and the petitioner is having receipt for the same. Whereas, there seems to be some dispute between the defacto complainant and her Power Agent based on which, the complaint has been lodged. He would reiterate that the petitioner is only an innocent purchaser who had purchased the property after having paid the entire consideration. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate appearing for the respondent police would submit that the defacto complainant had executed a Power of Attorney in favour of one Sainath/Al and no consideration was passed at the time of execution of the Power of Attorney. Thereafter, the said Sainath sold the properties to various persons and received monies from them however, he has not settled the amount to the owner of the property. Thereby, the said Sainath has committed Criminal Breach of Trust. He would further submit that as per the investigation, the said Sainath only has been arrayed as an accused as of now.

5.Taking into consideration the facts and circumstances of the case and the submission of the learned Government Advocate that as per investigation, one Sainath only has been arrayed as an accused in this case, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

(a) 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 learned Judicial Magistrate-II, Chengalpet, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety 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:

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police as and when required for interrogation.

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

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

[f] 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].

[g] 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/-

30/04/2021

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, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

WEB COPY

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
THAIYAR KULAM,
KANCHIPURAM-631 501.

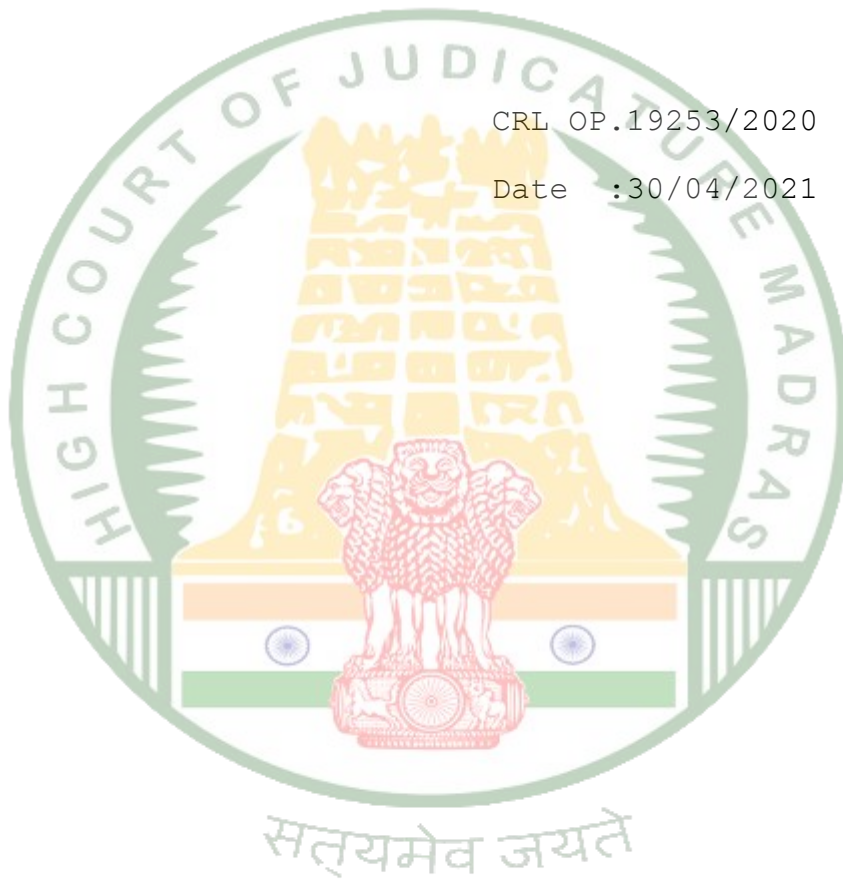
4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.VENKATESH MAHADEVAN Advocate on payment of necessary
charges

CRL OP.19253/2020

Date :30/04/2021

RVR 29/06/2021



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