



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.18506 of 2021

Kushal Chand

... Petitioner

Vs.

State rep by
The Inspector of Police,
Team XV, Central Crime Branch,
Vepery,
Chennai - 600 007.
(Crime No.119 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail pending investigation in Crime No.119 of 2021 on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 17.09.2021 for the offences punishable under Sections 419, 465, 467, 468, 471 r/w Sec 34 and 109 of IPC, in Crime No.119 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the original owner of the property and she had purchased the property from one Mohan Mathyu in the year 1990. While so, A1 had impersonated the defacto complainant and executed two power of attorney in favour of A2 and A3 in the year 2019 in respect of S.No,191 and 192. When the power of attorney subsistence, A1 had executed a sale deed in favor of A5 in the year 2020. Thereafter, the petitioner/A5 had mortgaged the property in the Punjab National Bank. Further, the petitioner along with other accused persons had intentionally grabbed the property belonging to the defacto complainant. Hence, the complaint was registered.



3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offence and he has been falsely implicated in this case. He further submits that the petitioner has been jail from 17.09.2021. He further submitted that the petitioner is ready to cancel the sale deed within a time framed fixed by this Court and the petitioner has also filed an affidavit before this Court and it is stated in the affidavit paragraphs 4 and 7 are as follows:-

'4 I State that I am willing and ready to cancel the above sale deed to prove my bonafide and seek the indulgence of this Hon'ble Court in deciding the future of the property I have become a victim and has paid upfront amount of more than 50 Lakhs as down payment for the purchase of the property.

7. I therefore pray to this Hon'ble Court may pass grant a bail and I shall undertake to cancel the Sale Deed within a period of 30 days and I am ready to willing to comply with order/s that this Hon'ble Court deems fit to impose on me in the above circumstances.

4. Heard the learned Government Advocate (Crl.Side) appearing for the respondent police.

5. Considering the period of incarceration suffered by the petitioner and the petitioner is now ready cancel the sale deed and the petitioner has also filed an affidavit to that effect, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Special Metropolitan Magistrate-II (Land Grabbing) Cases, Egmore,, and on further condition that:

(a) the sureties shall affix their 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, daily at 10.30 a.m., until further orders.

(c) the petitioner is directed to cancel the sale deed within a period of one month as per his affidavit.

(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]; and;

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

-sd/-

04/10/2021

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 METROPOLLITAN MAGISTRATE-II,
(LAND GRABBING CASES),
EGMORE.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

3 THE INSPECTOR OF POLICE,
TEAM XV, CENTRAL CRIME BRANCH,
VEPERY, CHENNAI - 600 007.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET.

+1 CC to M/S.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO.10938

CRL OP.18506/2021

Date :04/10/2021

INBA-05/10/2021