

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.32190 of 2019

Dhanasekar

... Petitioner

Vs.

The State rep. by
Inspector of Police,
Walajabad Police Station,
Walajabad,
Kancheepuram District.
(Crime No.96 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.96 of 2019 pending on the file of the respondent.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

Totally, there are five accused and the petitioner is arrayed as A5. He apprehends arrest at the hands of respondent police for the offence punishable under Sections 120(b), 423 and 420 of I.P.C., in Crime No.96 of 2019 and now, he has filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that A1 claiming to be owner of the property said to have given a Power of Attorney in favour of A2 to A4, in turn, using the power of attorney, they have sold the property to the petitioner. Now, the defacto complainant claiming to be real owner of the property, has given a complaint alleging that all the accused have committed forgery, created false documents and usurped the property. Hence, based on that complaint, the criminal case has been registered against the petitioner. Now, apprehending arrest, the present petition has been filed seeking to grant anticipatory bail.

3. The learned counsel appearing for petitioner would submit that the petitioner was a bonafide purchaser and believing the words

of other accused, after paying entire sale consideration and after verifying the records, the sale deed was executed in his favour. He would submit that the defacto complainant has also filed a suit in O.S.No.282 of 2016, on the file of District Munsif Court, Kancheepuram and the court below has set aside the sale deed. He would submit that the suit is still pending, wherein the petitioner has filed an affidavit stating that he is forego his right and title over the suit schedule property. Hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner has purchased the property. He would submit that all the accused have joined together and usurped the property of the defacto complainant. Hence, the criminal case has been registered against the petitioner and he opposed to grant anticipatory bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the fact that the petitioner is the purchaser of the property, the sale deed has been executed in his favour after paying entire sale consideration and the suit has been filed, wherein the petitioner has also said to have filed an affidavit stating that he is forego his right and title over the property, 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 of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Kanchipuram, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioner shall appear 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.

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

-sd/-
27/01/2021

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, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WALAJABAD POLICE STATION,
WALAJABAD, KANCHIPURAM DISTRICT.

+1 CC to M/S.K.G.SENTHIL KUMAR Advocate on payment of necessary charges SR NO. 867

CRL OP.32190/2019

Date :27/01/2021