



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 18/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.4032 of 2021

C.Balamuthukumaran

... Petitioner/Accused No.3

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Madurai District.
Crime No.10/2019.

... Respondent/Complainant

For Petitioner : Mr.R.Shankar Ganesh, Advocate
for M/s.Dictum Law Firm, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

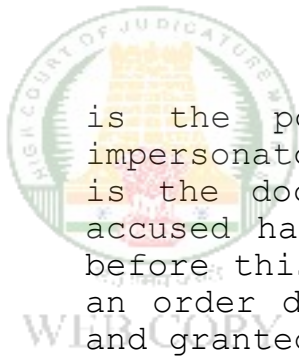
For Bail in Crime No. 10/2019 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 20.01.2021 for the offences punishable under Sections 120(B), 419,465,468,471 and 420 of IPC on the file of the respondent police seeks bail.

2.The case of the prosecution is that the property in question belongs to the mother of the defacto complainant/Muthu Pillai Ammal. The second accused in this case impersonated as if she is the mother of the defacto complainant and executed power of attorney in favour of the first accused and in the said power of attorney A3 and A4 stood as witness. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is only witness to the power of attorney registered in Dec. No. 306 of 2019 date 14.02.2019. He would also submit that A1



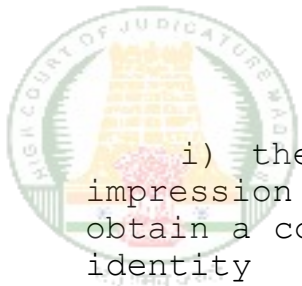
is the power of attorney of the said Arunkumar, A2 is the impersonator, A3 and A4 are the witnesses to the said document, A5 is the document writer. He further submitted that all the five accused had joined together and filed a anticipatory bail petition before this Court in Crl.O.P(MD) No.11581 of 2019 and this Court by an order dated 16.09.2019 had dismissed the petition as regards A1 and granted anticipatory bail to other accused persons including the petitioner herein on condition that the power of attorney to be cancelled within a week. Thereafter after the the petitioner could not convince and bring A1 and A2 to cancel the power of attorney. The cancellation of power of attorney is left with A1 and A2 and due to their non co-operation the petitioner was arrested and remanded to judicial custody, hence he seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that A1 is the beneficiary is whose name power of attorney has been created. A2 is the impersonator. A3 and A4 are the witnesses and A5 is the document writer. Originally the property belongs to one Muthu Pillai Ammal and she had purchased the property in the year 1982 vide document No.803 of 1982 and subsequently she died on 24.06.2016. Thereafter the power of attorney has been created by the petitioner and other accused in document No.306 of 2019 on 14.02.2019 by impersonation and also created forged documents. Further this petitioner is the close associate of A1 who had been with A1 throughout the entire occurrence in creating the forged documents. This Court had already granted anticipatory bail to some of the accused persons with a condition to cancel the power of attorney with in a week, but till today the said document has not been cancelled, hence he opposed to grant bail to the petitioner.

5. It is seen that the petitioner is the witness to the document No. 306 of 2019, which is the forged one. The earlier condition to cancel the power of attorney in Crl.O.P(MD) No.11581 of 2019 was ordered when the petitioner was not arrested and now he is in prison. The petitioner finding that the petitioner is unable to bring A1 and A2 to cancel the forged power of attorney to be reasonable. Further using the power of attorney no other document has been created and the property in document No. 803 of 1992 is not been so far encumbered.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7. 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 Court for Land Grabbing, Judicial Magistrate Level, Madurai.



i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

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ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. In view of the same the Sub Registrar, Checkanoorani, Madurai District is directed not to act upon the forged document No. 306 of 2019 and thereby not to create any encumbrance over the property pertaining to document No. 803 of 1992 and on the face of it, document No.306 of 2019 is non est in law, which is not a valid document and cannot be acted upon. Necessary entries to be made in the registrar office in the Register.

9. The respondent police is directed to produce the copy of this order to the Sub Registrar get acknowledged and keep it in the CD file.

sd/-
18/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1. THE SPECIAL COURT FOR LAND GRABBING,
JUDICIAL MAGISTRATE LEVEL, MADURAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SUB REGISTRAR,
CHECKANOORANI, MADURAI DISTRICT.

+1 CC to M/s.DICTUM LAW FIRM, Advocate (SR-2256[I] dated 18/03/2021)

ORDER

IN

CRL OP(MD) No.4032 of 2021

Date :18/03/2021

AAV

TK/VR/SAR.4/18.03.2021/4P/8C