



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.2015 of 2022

Siva @ Sivakozhunthu

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Central Crime Branch, Team XVI A,
Vepery, Chennai District
(Crime No.198 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, 1973 praying to enlarge the petitioner in Crime No.198 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.J.Arul Prakasam

For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 14.12.2021 for the offences under Sections 465, 467, 468, 471 r/w 34 IPC in Crime No.198 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that one, Chitra has misappropriated the defacto complainant's name since her father name is similar one and settled the defacto complainant's properties to her husband and the petitioner stood as witness in the power of attorney pursuant to the settlement deed. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is in judicial custody from 14.12.2021 onwards. Hence, he prays for bail.



4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police would submit that during the relevant point of time, the petitioner who is arrayed as 11th accused in the alleged crime signed as a witness in bogus document created by the other accused. However she would submit that investigation is completed and the respondent police is going to file final report in this matter.

5. The submissions made by the learned Counsel on either side are considered.

6. For the petition mentioned occurrence, the respondent police registered a case against the petitioner and others for the offences punishable under Sections 465, 467, 468, 471 r/w 34 IPC. The averments found in the first information report disclose the fact that the petitioner is a witness, except to sign as a witness he is not involved in the alleged occurrence. However whether he has signed as a witness with intention to cheat the defacto complainant or not has to be decided only during the time of trial. Therefore being the reason that the investigation has been completed in this case, custodial interrogation may not be necessary for completing the investigation.

7. Therefore, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner, this Court is inclined to grant bail to the petitioner subject to certain conditions.

(a) the petitioner is ordered to be released on bail to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Learned III Metropolitan Magistrate, George Town, Chennai

(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 shall report before the learned III Metropolitan Magistrate, George Town, Chennai daily at 10.30 a.m. for a period of 15 days and on every hearings;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;



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(e) 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];

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

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

-sd/-
14/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.III, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, TEAM XVI A,
VEPERY, CHENNAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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+1 CC to J.ARUL PRAKASAM Advocate on payment of necessary charges
SR.NO.2293

CRL OP.2015/2022

Date :14/02/2022

JPA 15/02/2022