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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :22.04.2022

Pronounced on :26.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.Nos.8947 and 8948 of 2022

Crl.O.P.No.8947 of 2022:

S.Ravi

.. Petitioner

/versus/

State Rep by
The Inspector of Police,
K2-Ayanavaram Police Station,
Chennai.
Crime No.143 of 2022.

..Respondent

Prayer in Crl.O.P.No.8947 of 2022: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner/accused on bail in Crime No.143 of 2022 pending investigation before the respondent police.

For Petitioner :Mr.T.I.Ramanathan

For Respondent :Mrs.G.V.Kasthuri,
Additional Public Prosecutor
(Crl.Side)

Crl.O.P.No.8948 of 2022:

S.Ravi

.. Petitioner

/versus/

State Rep by
The Inspector of Police,
K2-Ayanavaram Police Station,
Chennai.
Crime No.142 of 2022.

..Respondent



Prayer in CrI.O.P.No.8947 of 2022: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner/accused on bail in Crime No.142 of 2022 pending investigation before the respondent police.

For Petitioner :Mr.T.I.Ramanathan

For Respondent :Mrs.G.V.Kasthuri,
Additional Public Prosecutor
(CrI.Side)

COMMON ORDER

The petitioner/accused was arrested and remanded into judicial custody on 26/03/2022 by the respondent police in connection with the case registered under Sections 406 and 420 IPC.

2.According to the defacto complainant (Asaraf) in Crime No.142/2022 on the file of the respondent, this petitioner and his wife imposing themselves as the owner of a property, which actually belongs to a Trust, had received a sum of Rs.5,00,000/- as lease amount and let out the premises on 09/03/2022 to the defacto complainant and he took possession of the first floor of the premises. However, on 24/03/2022 two persons came and informed him that the property belongs to the Trust and asked him to vacate. When the defacto complainant contacted the petitioner herein, he has gone incognito and out of reach. Then realising he has been cheated, a complaint has been lodged on 25/03/2022.

3.A similar complaint in Crime No.143/2022 registered on the same day in respect of ground floor wherein the defacto complainant (Nazurudeen) has alleged that the petitioner has received Rs.7,00,000/- and leased out the ground floor premises claiming himself as the owner of the property but later two persons came on 10/03/2022 and claimed right over the property and asked to vacate and on the same day, the petitioner herein was arrested and remanded to judicial custody.

4.The case of the petitioner is that, in respect of premises bearing Door No.18/24, Appadurai Main Street, Ayanavaram Tmt.Amutha, w/o this petitioner, had entered into a lease agreement on 14/12/2021 with one Moorthy, Secretary of Tamil Nadu Voluntary Health Association for running a Hostel. Since there was no patronage for the hostel, with the consent of Moorthy sub-let the premises to the Defacto complainant. There is no cheating or mis-representation by the petitioner or his wife. When the 3rd parties with rowdy elements tried to forcible vacate the petitioner from the premises claiming themselves as the true representatives of the Trust, the wife of the



petitioner Amutha has filed a Civil Suit before the VI Assistant City Civil Court, Chennai in O.S. No.1976/2022 and the same is pending. While so, joining with the said Moorthy, this false complaint is filed by the defacto complainant to avoid paying the agreed lease amount. Further, both the complaints are silent about the particulars about the two persons, who claim right in the property. This will show that pending suit, to arm twist the petitioner and his wife false complaint has been given and the petitioner was arrested without even making any enquiry and unmindful of the fact that the petitioner entered into lease agreement with one Moorthy, who is the Secretary of the said Trust and the civil suit is pending regarding the disturbance to the lawful enjoyment.

5.The Learned Additional Public Prosecutor submitted that the petitioner, who is alleged to have entered into a rental agreement with one Moorthy on 14/12/2021 paying rental advance of Rs.1,00,000/- had leased out the property to the defacto complainants and received Rs.5,00,000/- and Rs.7,00,000/- respectively. While entering into the lease agreement with the defacto complainants, he has claimed himself as owner of the property. Therefore, the intention to cheat at the inception is clearly made out. Further, the investigation also reveals that the petitioner and his wife had adopted similar MoP and indulged in similar offences and those cases are also under investigation. If the petitioner is released on Bail, he will tamper the investigation and distort evidence.

6.The Learned Counsel for the petitioner relying on the Title Deed dated 23/05/1994 of the subject property which is in the name of TAMIL NADU VOLUNTARY HEALTH ASSOCIATION, REPRESENTED BY ITS SECRETARY and the rental agreement dated 14/12/2021 between his wife and one Moorthy, who claims to be the Secretary of the said Association, submitted that, the respondent has falsely assumed that the property belongs to Waqf board, which is contrary to the title documents. Moreover, in respect of the possession, civil suit is pending. While so, by giving a criminal colour to the civil dispute, this complaint has been given to dispossess the lawful owner.

7.In the rental agreement entered on 14/12/2021 between Moorthy and Amutha, the said Moorthy claims himself as the owner of the property. In the Lease agreement between the defacto complainants and the petitioner, the petitioner claims himself as the owner of the property. Both claims are false and a mis representation.

8.According to the petitioner, the property belongs to TAMIL NADU VOLUNTARY HEALTH ASSOCIATION. Neither the Moorthy nor the petitioner are the owners of the property. While so, admittedly the petitioner has received Rs.7 lakhs and Rs.5 lakhs from the defacto complainants Nazurudeen and Asruf respectively by posing himself as the owner of the property and put them in possession. The defacto complainants as leasee under the petitioner are still in possession



and no material placed by the respondent before this Court to show that there is any rival claim over the subject property and who are the persons, who came to the subject property and disturbed the possession of the defacto complainants.

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9. In the said factual circumstances, considering the submissions of the learned Additional Public Prosecutor and the learned counsel for the petitioner, this Court grants bail to the petitioner on the following conditions:-

10. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:-

(a) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties, each for a like sum to the satisfaction of the learned V Metropolitan Magistrate, Egmore, Chennai-8;

(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 is directed to report before the Investigating Officer daily at 10.00 a.m., until further orders;

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

(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 v. State of Kerala [(2005) AIR SCW 5560];

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

-sd/-

26/04/2022

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.V, EGMORE, CHENNAI-8.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
K2-AYANAVARAM POLICE STATION,
CHENNAI

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S T.I. RAMANATHAN Advocate on payment of necessary
charges SR.NOs. 6255 & 6256

CRL OP.Nos.8947 and 8948 /2022

Date :26/04/2022

RW 26/04/2022