



Crl.OP.No.24160 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2022

CORAM

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.OP.No.24160 of 2022

D.Shanmugam,
S/o. Devanan

... Petitioner

Vs.

State rep. By,
The Inspector of Police,
Central Crime Branch (CCB),
Land Grabbing – I, Team-15,
Office of Commissioner of Police,
Vepery, Chennai-600 007
(Crime No.147/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the Petitioner on bail in Crime No.147 of 2022 pending
investigation on the file of the Respondent.

For Petitioner : Mr.Gokula Rao

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

The Petitioner, who was arrested and remanded to judicial custody on 30.08.2022 for the offences punishable under Sections 465, 467, 468, 471 r/w Sec.34 of I.P.C. In Crime No.147 of 2022 on the file of the Respondent Police, seeks bail.

2. The case of the Prosecution is that the property in question was originally belonged to Mr.P.Nayagam, who had succeeded the above said property from one Sadhu Kenghaiah Swamigal by way of registered Will dated 08.12.1993. Later on, as a sole legatee of the said Swamigal, he executed a Will dated 05.04.2006 with life interest and through his Will, he appointed one Ramamoothy as an executor to dissolve his property according to his desire after his life time. Subsequently, after obtaining the order of granting a Probate from this court, the said Ramamoorthy appointed this petitioner as his power agent by way of registered power of attorney. Thereafter, the property situated at No.58, Badrian Street, comprised in Survey No.11233 and Block No.90 consists of 1624 sq.ft. said to have



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falsely transacted to one Amutha Esther. However, the defacto complainant with an allegation about the title of property lodged the present complaint against the said Ramamoorthy and other accused.

3. The learned Counsel appearing for the Petitioner would submit that the Petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that being an Executor under the Will dated 05.04.2006 and following the order passed by this court, A1/Ramamurthy dealt with the property in question being one of the properties belonging to the Mutt and given a power of attorney to and in favour of this petitioner. However, there is a claim and counter claim with regard to ownership of property. He would further submit that the petitioner has acted bonafidely without any malicious motive or with any criminal intention to misappropriate the property in question. He would submit that petitioner is in judicial custody for the past 36 days and the co-accused was released on bail. Therefore, he prays for grant of bail to the Petitioner.

4. The learned Additional Public Prosecutor appearing for the Respondent would submit that totally, there are 6 accused involved in this



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case and the petitioner is arrayed as A2. He would submit that based on the Will probated in O.P. No.583 of 2009, A1 executed a General Power of attorney in favour of this petitioner and he sold this property for a sum of Rs.62,00,000/-, in turn they sold the Government property to one Amudha Esther for a sum of Rs.1,10,00,000/-. However, during investigation, it was found that in the Will document, this case property was not mentioned, but the accused misused the unconnected document number, created false document for the Government temple property and out of sale consideration, this petitioner and other accused unlawfully gained Rs.48,00,000/-. He would further submit that the investigation is at preliminary stage and if he is released on bail, there is every possibility of absconding and tampering the evidence. Hence, he vehemently opposed to grant bail to the Petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record including the First Information Report.

6. Considering the above facts and circumstances and also considering the period of incarceration suffered by the petitioner and there is



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no previous case pending against the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, one surety shall be a blood surety, each for a like sum to the satisfaction of the learned Special Court – Landgrabbing-II, Allikulam, Chennai, and on further condition that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judicial / Metropolitan Magistrate may obtain a copy of their Aadhar card or voter identity card or driving license or PAN card or Bank pass Book with photo affixed and attested by Bank Manager to ensure their identity;

(b) the petitioner shall co-operate with the pending investigation and report before the Inspector of Police, Central Crime Branch, Land Grabbing-II, Team-15, Office of Commissioner of Police, Chennai, daily at 10.00 a.m., until further orders.



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(c) the petitioner shall not influence, threaten or coerce the witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the Investigation Officer shall exercise the discretion to cancel the bail by approaching the Court of the learned Judicial Magistrate/Trial Court.

(f) the learned Judicial Magistrate/Trial Court shall on application for cancellation of bail bond by the Investigation Officer shall pass appropriate orders as though bail granted by the learned Judicial Magistrate/Trial Judge himself/herself 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.

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To

1. The learned Special Court – LG-II,
Allikulam, Chennai
2. The Inspector of Police,
Central Crime Branch (CCB),
Land Grabbing – I, Team-15,
Office of Commissioner of Police,
Vepery, Chennai-600 007
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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SATHI KUMAR SUKUMARA KURUP,J.

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