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CrI.O.P.No.29620 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.29620 of 2022

Arutselvan @ Chellappan

... Petitioner

Vs.

State rep. by
Station House Officer,
Chidambaram Town Police Station,
Chidambaram,
(Crime No.649/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime
No.649 of 2022 on the file of the respondent police.

For Petitioner : Mr.T.Gnana Banu

For Respondent: Mr.C.E.Pratap
Government Advocate (CrI.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.11.2022, for the offences punishable under Sections 147, 294(B), 323, 342, 364(A) and 506(i) and 120(B) of IPC, in Crime No.649 of 2022 on the file of the respondent police, seeks bail.

2.1 The case of the prosecution as per the de-facto complainant Kumar is that he is the District Secretary of Devar Peravai and that the victim Haja Mohideen is his friend. During the year 2017, the victim had purchased the property measuring an extent of 6000 Sq.ft in No.13, North Street, Chidambaram from one Jamal Mohideen (A1) and it was in his possession. Since, the victim was going abroad, he had let the property for rent to A1, whereas, A1 did not pay the rent for the last 5 years and sublet the property and enjoying the rental and lease income from the said property. Thereafter, after returning from abroad, on 21.10.2022, the victim and the complainant had come to Chidambaram and demanded rent amount for about 5 years to A1. At that time, A1 and his friends A2 and A3/petitioner herein had ill treated the victim and the complainant by stating that they do not have any



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right over the said property.

2.2 Thereafter, the victim and the complainant went to the respondent on 22.10.2022 and preferred a complaint, which is registered in C.S.R.No.777 of 2022. Thereafter, on 05.11.2022, when they went to obtain Encumbrance Certificate of the said property near Shahjahan complex, A1 to A3 had come along with the other persons in a car, surrounded the victim and took him inside the said complex to a shop of a document writer and by threatening him, had made him to execute a document. The *de-facto* complainant and one Mohan had awaited outside the complex for about four and half hours and thereafter, believing that the victim would come, had returned to Chennai. While so, on 07.11.2022, at about 8.30 p.m., the victim from a mobile number 9176867040 had called the complainant and informed that the accused had by threat forcibly obtained signature in an agreement with respect to the above said property and had taken him in a car which belongs to one Bala, on 05.11.2022 to Heaven's Land Lodge, where he was detained in room No.105 and beaten him by asking the original documents of the above said property and threatened him with dire consequences.



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2.3 Subsequently, on 08.11.2022, the complainant and his driver had gone to the lodge and enquired the watchman about the persons who were in the room No.105 and he had informed that 4 persons who were staying in the said room left in the morning in a Baleno Car bearing registration No.PY-01-VB-8374. Thereby, the complainant has lodged a complaint to rescue the victim. Based on which the case was registered and the petitioner along with other accused were arrested at Neelangarai, Chennai on 09.11.2022. Hence the case.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has no connection with the other accused. He would submit that a civil dispute in respect of a property at Chidambaram was pending between one Haja Mohideen/victim and the 1st accused Jamal Maidheen. The victim had taken advance of Rs.25,00,000/- from A1 agreeing to sell the property and entered into a sale agreement, later to evade executing sale deed and return the advance a false case has been filed and since the petitioner is an history sheeter against whom there are 6 previous cases, the petitioner's name was also roped in this case to make out the case as against the other accused. He would further submit that the



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petitioner was arrested on 09.11.2022 and he is in custody for the past 23 days. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that there was a civil dispute between the victim and the A1 and one Nalraj (A7) with regard to the sale of a property when he had refused to pay the rent to the property belonging to the victim. He further submitted that after the victim had come from Singapore while so on 05.11.2022, the accused have kidnapped and taken him to the document writer's office and had under threat forcibly obtained signature in empty bond papers and fabricated documents and thereafter detained him in a lodge in Chidambaram and later forcibly took him to Chennai. Hence, he opposed for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.



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6. Taking into consideration the facts and submissions and also the period of incarnation of the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 **learned Judicial Magistrate No.II, Chidambaram**, and on further conditions that:

[a] 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;

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;



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[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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mpl



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A.D.JAGADISH CHANDIRA.,J.

mpl

To

1. The Judicial Magistrate No.II,
Chidambaram.
2. The Station House Officer,
Chidambaram Town Police Station,
Chidambaram.
3. Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

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