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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 07/09/2022

Delivered on : 16/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.15707 of 2022

Tamilselvan ... Petitioner/Accused No.3

Vs.

The State rep.by,
The Sub Inspector of Police,
District Crime Branch Police Station,
Thoothukudi
(Crime No. 26 of 2022).

... Respondent/Complainant

Ialiyazhwar ... Petitioner / Intervener
in CRL MP(MD)No.10625 of 2022

For Petitioner : M/s.Muthumalai Raja.S,
Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor
For Intervenor : Mr.M.Suresh, Advocate.

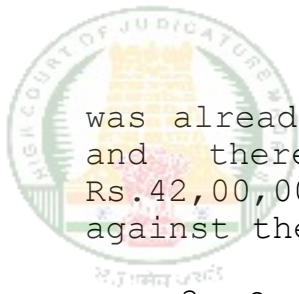
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Crime No.26 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 09.07.2022, in Crime No.199 of 2022, on the file of the respondent police, for the offence punishable under Sections 420, 467, 468, 471, 120(B) and 506(i) I.P.C., in Crime No. 26 of 2022, seeks bail.

2. The allegation against the petitioner is that on 01.07.2021, the petitioner along with other accused conspired together and obtained a forged legal heirship certificate and on that basis he executed a fraudulent sale deed in favour of the defacto complainant and that after verifying the Encumbrance Certificate for the property, the defacto complainant came to know that the property



was already sold to some other person by the original owner. If and thereby, cheated the defacto complainant a sum of Rs.42,00,000/-. A case in Crime No.26 of 2022, was registered against the petitioner.

3. On the side of the petitioner, it is stated that there are four persons arrayed as accused in this case. The petitioner is arrayed as A3. There is no overt act against the petitioner. He was the attesting witness, one other attesting witness - A4 was already granted bail by the Sessions Court. There is no previous case against the petitioner and he is in judicial custody from 09.07.2022 and prayed the petitioner to be released on bail.

4. On the side of the intervenor, it is stated that the petitioner and other accused cheated the defacto complainant to the tune of Rs.42,00,000/- and that the petitioner and A2 instigated the defacto complainant to purchase the land and that he shared the amount with the other accused and that the intervenor has moved for the cancellation of bail for A4. A huge amount was cheated by the petitioner and the other accused and prayed the petition to be dismissed.

5. On the side of the prosecution, it is stated that the petitioner and other accused conspired together and cheated him a sum of Rs.42,00,000/- and the amount was shared by the petitioner and other accused. There was no recovery so far and prayed the petition to be dismissed.

6. It is seen that the petitioner is in custody for the past two months. Major parts of the investigation might have been over by then, already co-accused was released on bail. Considering the facts and circumstances of the case and considering the period of incarceration, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on his executing a bond for a sum of 10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District, and on further conditions that:

(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;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;



(iii) the petitioner shall not tamper with evidence or w

(iv) the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

(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 / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

16/09/2022

/ TRUE COPY /

19/09/2022

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 JUDICIAL MAGISTRATE NO.IV,
THOOTHUKUDI, THOOTHUKUDI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT.

3 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
THOOTHUKUDI

4 THE OFFICER INCHARGE,
DISTRICT JAIL, PERURANI, THOOTHUKUDI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.15707 of 2022

Date :16/09/2022

LS

<https://www.mhjudiciary.org.in/19.09.2022/3P/6C>