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Crl.O.P.No.4303 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.4303 of 2023

Maria Vincent,
S/o.Maria Arulanantham

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Central Crime Branch,
Tambaram Police Commissionerate,
Chennai-119.
(Crime No.755 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.755 of 2022 pending on the file of respondent police.

For Petitioner : Mr.K.Thenrajan

For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl.Side.)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.12.2022 for the alleged offence under Sections 465, 467, 468, 471, 406, 420 of I.P.C. r/w 34 of I.P.C. in Crime No.755 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant was in possession and enjoyment of property of an extent of 2.33 cents in S.Nos.63/2, 72/2A, 73/3. However, without having any original documents in his name by using mortgage deed in the name of Thiru Sagadevan and Tmt. Sathyalakshmi, with the help of Sub-Registrars forged some documents, distorted and changed the registration papers and forged the same into original documents for the above said survey numbers. Hence, the complaint.

3. The learned counsel for the petitioner submitted that totally, three accused involved in this case and he is arrayed as A1. He would submit that he has been falsely implicated in this case. However, the true



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fact is that he has purchased the property for a valid consideration from his vendor in the year of 1991 and thereafter, he was in possession of the property. Hence, he cannot be held liable for any forgery and false documents or misrepresentation or impersonation. He would submit that there is no specific overtact attributed against the petitioner and he is an innocent person and he has not at all committed any offence as alleged by the respondent police. He would submit that he is no way connected with the occurrence and he will abide by any condition that may be imposed by this court. He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than 69 days from 16.12.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are 3 accused involved in this case and the petitioner is arrayed as A1. He would submit that the sale deed claimed by the petitioner dated 27.05.1991 itself is a fraudulent document, which was created by unlawful owner and hence, the same was cancelled by District Registrar of Chennai on 31.01.2017 after due



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enquiry. Based on that sale deed, the petitioner has no right over the property and subsequent forged documents were created. He would submit that if he is released on bail, he would tamper the witnesses and hamper the investigation and the investigation is almost completed. Hence, he vehemently opposed to grant bail to the petitioner.

5. By way of reply, the learned counsel for petitioner would submit that the original owner has executed a Will dated 30.11.1993 is not related with the property owned by him, but the said Will was probated as if the Will contents would declare his title. Hence, based on the Will, the petitioner claimed right over the property and the allegations attributed against the petitioner is unfair and he is in judicial custody for more than 69 days.

6. Owner with regard to the issue, there is a dispute over the property. On seeing the records, it reveals that the sale deed relied by the petitioner was considered as fake and the same was already cancelled by the District Registrar, Chennai proceedings in the year of 2017 itself. However, the petitioner's counsel content that the petitioner was not



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given any notice and in fact, in the year of 2017, the document was declared as a fake document. Considering the above facts and circumstances, and also considering the fact that already document is in dispute is cancelled by the authorities and the investigation is almost completed and the fact that there is no possibility of tampering the evidence, and on considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety** for a like sum to the satisfaction of the **learned Judicial Magistrate Court No.1, Tambaram**, and on further conditions that:

(a) 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;



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(b) the petitioner shall report before the respondent police on every Tuesday and Saturday at 10.30 a.m. for the period of three months and thereafter on every Saturday at 10.30 a.m. for another period of three months and also as and when required for interrogation;

(c) the petitioner shall not commit any offences of similar nature;

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

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

(f) 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];

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

24.02.2023

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To

1. The Judicial Magistrate Court No.1, Tambaram.
2. Inspector of Police, Central Crime Branch,
Tambaram Police Commissionerate, Chennai-119.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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