



Crl.O.P.Nos.16328 & 17334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.08.2023

PRONOUNCED ON : 16.08.2023

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.16328 & 17334 of 2023

and

Crl.M.P.Nos.10935, 11154 & 12296 of 2023

G.Balasubramaniyan ... Petitioner in Crl.O.P.No.16328 of 2023

Rengaraj ... Petitioner in Crl.O.P.No.17334 of 2023

Vs.

The State rep by,
Inspector of Police,
City Crime Branch (CCB),
Tiruppur,
Crime No.13 of 2022.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 439 Cr.P.C., to enlarge the petitioners on bail, pending investigation, in Crime No.13 of 2022, on the file of the respondent police.

For Petitioner : Mr.D.Selvam (in Crl.O.P.No.16328/2023)
: Mr.R.Thirumoorthy (in
Crl.O.P.No.17334/2023)

For Respondent : Mr.S.Rajakumar



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Additional Public Prosecutor
: Mr.Ashwin Kumar.A
(in Crl.M.P.No.10935 & 12296 of 2023)

: Mr.T.Shanmugha Rajeswaran
(in Crl.M.P.No.11154 of 2023)

COMMON ORDER

These petitions are filed under Section 439 Cr.P.C., to enlarge the petitioners on bail, pending investigation, in Crime No.13 of 2022, on the file of the respondent police.

2.The case of the prosecution in brief is as follows:

The defacto complainant is engaged in buying and selling of lands. He was approached by land brokers, Jagannadhan and Jayaraj through one Moorthy of Chennai and informed that an extent of 2.47 acres of land is available for sale at Periyapalayam, Tiruppur District. The owner of the land Shanmugasundaram S/o.Muthannachettiyar obtained non traceable certificate, after following the necessary procedures. After seeing those documents and land, he purchased the land in his name and in the name of his friend Sangeetharajan. After purchase, he attempted to fence the land. At that point of time, the real owner Shanmugasundaram



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S/o.Muthannachettiyar came there and informed him that the land belongs to him. When defacto complainant informed him that he purchased the land of Shanmugasundaram through Jagannadhan and Jayaraj and paid a total sum of Rs.1,21,56,210/-, the said Shanmugasundaram denied the said transaction and informed that he is in the possession of the original title deeds with him. Only then, defacto complainant realised that the accused had cheated him by impersonating the real owner and forging of documents. Petitioner in Crl.O.P.No.16328 of 2023 is the sixth accused in this case and petitioner in Crl.O.P.No.17334 of 2023 is the seventh accused in this case.

3.The learned counsel for the petitioner in Crl.O.P.No.16328 of 2023 submitted that this petitioner is from Chennai and he has no role in the alleged impersonation, fabrication, forging of documents and in the sale of the property. He has not received any money. He is in judicial custody from 24.06.2023. Thus, he seeks bail. Similarly, the learned counsel for the petitioner in Crl.O.P.No.17334 of 2023 submitted that this petitioner has also no connection with the alleged impersonation,



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fabrication and forging of documents. He was not paid any money.

There is no incriminating material available against him. He is in judicial custody from 24.06.2023 and thus seeks bail.

4.Both learned counsel submitted that the accused Jagannadhan and Jayaraj had been arrested and released on bail.

5.The learned Additional Public Prosecutor strongly opposed this petition on the ground that accused in this case have conspired and committed the offence in connivance with each other. A1 and A4 to A7 belong to Chennai and A2 and A3 belong to Tiruppur. A2 and A3 informed the other accused that vacant land was available at Periyapalayam, Tiruppur and no one is taking care of this lands for long years. The land is in the name of Shanmugasundaram S/o.Muthannachettiyar. Then A4, A6 and A7 colluding among themselves, with malafide intention, prepared forged documents and arranged one Parthasarathy @ Shanmugasundaram (first accused in this case) to impersonate the original owner Shanmugasundaram. Thus, they



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received Rs.1,22,79,000/- from the defacto complainant by executing the sale deed in respect of 2.47 acres land, for which, they have no title or authority to execute the sale. A4, A6 and A7, to facilitate this sale, gave paper publication through A1, as if the original documents of the land were missing and then gave a complaint before the Somangalam Police Station, which is near to the residence of A4, A6 and A7. After obtaining non-traceable certificate from Somangalam Police station, they created forged Aadhar Card and Pan Card in the name of first accused and executed the sale in favour of the defacto complainant.

6.He further submitted that sixth accused created a bank account in the name of his dead father Gunasekaran and got a sum of Rs.19,00,000/- as his share. A sum of Rs.15,00,000/- was paid to seventh accused by the first accused. The co-accused Jaganathan was released on bail for the reason that he offered to deposit Rs.20,00,000/- to the credit of Crime No.13 of 2022. Jayaraj was released on bail on his deposit of original title deeds to the value of not less than Rs.50Lakhs along with the valuation certificate obtained from the concerned authority.



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7.The learned Additional Public Prosecutor has also produced the statement of accounts to show the transfer of money to the account of Gunasekaran to the tune of Rs.19,00,000/- and its withdrawal.

8.The learned counsel for the defacto complainant strongly opposed the grant of bail to the accused for the reason that defato complainant lost a sum of Rs.Rs.1,21,56,210/- and till now, the amount is not fully recovered. The learned counsel for the intervenor/original owner Shanmugasundaram opposed these petitions on the ground that the accused had illegally created encumbrance over his property.

9.At the conclusion of the hearing, the learned counsel for the petitioner in Crl.O.P.No.16328 of 2023 filed an affidavit on behalf of the petitioner, signed by the petitioner's wife Saranya, stating that she is willing to deposit Rs.19,00,000/- to the credit of Crime No.13 of 2022 to show the bonafide of her husband.



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10.Considered the rival submissions and perused the records.

From the facts obtained from the FIR, the submission of the learned counsel appearing for the parties and the materials produced, there is no doubt that it is a clear case of impersonation by the first accused in selling the property of the original owner Shanmugasundaram/intervenor in Crl.M.P.Nos.10935 of 2023 & 12296 of 2023. There are *prima facie* materials available against petitioner Balasubramaniyan that a sum of Rs.19,00,000/- was transferred to the account of Gunasekaran, which according to the prosecution, is in the name of the petitioner's father and that this account was created at the instance of the petitioner with the help of an impostor. As of now, respondent police produced the statement of accounts to show the inflow of Rs.19,00,000/- to the account of Gunasekaran and its withdrawal. Whether this Gunasekaran was set up by this petitioner or not has to be further investigated. The case of the prosecution, as of now is that, petitioner in Crl.O.P.No.16328 of 2023 received a sum of Rs.19,00,000/- and petitioner in Crl.O.P.No.17334 of 2023 received a sum of Rs.15,00,000/- in this case. Both petitioners are



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in judicial custody from 24.06.2023. Material part of the investigation might have been over by this time.

11.In view of the undertaking affidavit given by the petitioner's wife in Crl.O.P.No.16328 of 2023, this Court is of the view that petitioner in Crl.O.P.No.16328 of 2023 may be released on bail with suitable conditions. Similarly, petitioner in Crl.O.P.No.17334 of 2023 may also be released on bail, subject to his production of original title deeds, either in his name or in the name of his close relatives for the value of Rs.15,00,000/- with necessary valuation certificate from the concerned authority.

12.In this view of the matter, this Court is inclined to grant bail to the petitioners. Accordingly, petitioner in Crl.O.P.No.16328 of 2023 is directed to deposit a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) to the credit of Crime No.13 of 2022 and petitioner in Crl.O.P.No.17334 of 2023 is directed to deposit the original title deeds either in his name or in the name of his close relatives for the value of



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Rs.15,00,000/- with necessary valuation certificate from the concerned authority and on such deposits, the petitioners are ordered to be released on bail on their executing a separate 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 the learned **Judicial Magistrate No.II, Tiruppur** 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 petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] The learned Judicial Magistrate No.II, Tiruppur,



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is directed to use the sum of Rs.19,00,000/- deposited by the petitioner in Crl.O.P.No.16328 of 2023 for awarding compensation under Section 357 Cr.P.C.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

13.Accordingly, these criminal original petitions are allowed.

Consequently, connected miscellaneous petitions are closed.

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16.08.2023

To:



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1.The Judicial Magistrate – II,
Tiruppur.

2.The Public Prosecutor,
High Court, Madras.

3.The Inspector of Police,
City Crime Branch (CCB),
Tiruppur,
Crime No.13 of 2022.

4.Central Prison,
Coimbatore.

G.CHANDRASEKHARAN , J.



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Pre-Delivery Order in
Crl.O.P.Nos.16328 & 17334 of 2023

16.08.2023