



Crl.O.P.No.18122 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.18122 of 2023

Divya Chandrasekar

...Petitioner

Vs.

State Represented by,
The Inspector of Police,
Central Crime Branch,
ALGSC -I, Team – XVII,
Vepery, Chennai – 600 007.
Crime No.94 of 2023
...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Crime No.94 of 2023 on the file of the respondent police.

For Petitioner : Mr.C.Senthil Nathan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

For Intervenor : Dr.K.M.Ravi



CrI.O.P.No.18122 of 2023

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.07.2023 for the offences punishable under Sections 465, 467, 468, 471 and Section 34 of IPC in Crime No.94 of 2023 on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner is the daughter of the first accused. It is alleged in the FIR that, petitioner joined the 1st accused/ father and 3rd accused/ brother in executing general power of attorney deed in favour of the 2nd accused, in respect of the property, which according to the case of the prosecution was already sold by the first accused and his brothers. He further submitted that, challenging the execution of sale deed dated 05.12.1975, Logeshwari, daughter of V.S.Srinivasan filed a suit in O.S.No.720 of 2021 on the file of the City Civil Court, Chennai and it is pending. Petitioner is only aged about 21 years and she acts at the behest of her father and she is in Judicial Custody from 13.07.2023. Thus, he seeks



bail.

3. In reply, the learned Additional Public Prosecutor submitted that, property comprised in T.S.No.6530, Block No.140 lying within R.O South Chennai and S.R.O. T.Nagar measuring to an extent of 2 grounds and 1900 sq.ft belonged to 1st accused V.S.Chandrasekaran and his brothers. They had sold the property to the father and grandfather of defacto complainant. After selling this property, accused in this case by committing fraud, criminal misrepresentation, cheating and falsification of public records, executed General Power of Attorney ie., A1, A3 & A4 executed General Power of Attorney in favour of A2, wife of the first accused. In the said circumstances, this case is registered. In support of his submission, he produced the copies of the sale deed dated 05.12.1975 executed by V.S.Srinivasan and his brothers in favour of one N.S.Naidu and his son Krishnamoorthy and the general power of attorney deed executed by A1, A3 and A4 in favour of A2. Thus, he opposed this petition.



CrI.O.P.No.18122 of 2023

WEB COPY

4. The learned counsel appearing for the defacto complainant/intervenor submitted that, documents filed in O.S.No.720 of 2021 are forged and fabricated documents. This was observed by this Court in C.R.P (PD).No. 1756 of 2017. Therefore, it is apparent from the documents produced that, after selling the property by V.S.Chandrasekhar and his brothers, V.S.Chandrasekhar in collusion and connivance with other accused created general power of attorney deed. Thus, he strongly opposes this petition.

5. Considered the rival submissions and perused the records. The reading of the sale deed dated 05.12.1975 with regard to trace of title, it shows that, property covered under the sale deed with a larger extent originally purchased by one Smt. Sundara Bai in a sale deed dated 30.01.1935. She had sold the part of the property ie., 3 ground 770 sq.ft to C.M. Vatchala Mudhaliyar on 13.09.1947. Then she sold the remaining extent of the property namely 2 ground 1680 sq.ft to one Subramania Mudhaliyar by a registered sale deed dated 27.10.1949.



Crl.O.P.No.18122 of 2023

Subramania Mudhaliyar by a registered deed dated 15.03.1951 settled the property to the 1st vendor namely V.S.Srinivasan with a direction of pay an amount of Rs.1,000/- to each one of his daughters namely daughters of Subramania Mudhaliyar as marriage gift. It is mentioned that, 2nd vendor namely V.S.Chandrasekhar, claiming share in the property filed a suit for partition against the vendors 1,3 & 4 in O.S.No. 1643 of 1973 on the file of the City Civil Court, Chennai. Thereafter, vendors agreed to share the income and sale profits equally among themselves and therefore, suit in O.S.No.1643 of 1973 was dismissed as withdrawn on 03.12.1974. This is the basis on which, vendors 1, 3 & 4 had joined in executing sale deed dated 05.12.1975. Challenging the same, daughter of V.S. Srinivasan filed a suit in O.S.720 of 2021 with a prayer to declare that, sale deed dated 05.12.1975 in Doc.No.1493 of 1975 does not pertain to the schedule property and that it will not bind to the plaintiff. It appears that, there is a dispute with regard to the identification of the property as well.

6. From the narration of the facts, it is apparent that, there are



CrI.O.P.No.18122 of 2023

already litigations pending with regard to the property in dispute and only a competent civil Court can resolve this dispute. The allegation against the petitioner is that, he joined his father in executing general power of attorney deed in favour of her mother in respect of undivided $\frac{1}{4}$ th share of V.S.Chandrasekhar. It is informed that, 2nd accused, in favour of whom, the general power of attorney deed was executed, died on 24.06.2018. With the death of the 2nd accused, validity of the power of attorney deed comes to an end.

7. Taking all these aspects into consideration and the issue involved in this case is of civil in nature and the petitioner is in Judicial Custody from 13.07.2023 and that material part of the investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner.

8. Accordingly, 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



CrI.O.P.No.18122 of 2023

of the learned Metropolitan Magistrate for Exclusive Trial of CCB

Cases and CBCID Cases at Egmore 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 daily at 10.30.a.m., until further orders.

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

[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



Crl.O.P.No.18122 of 2023

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

31.08.2023

sma

To

- 1.Metropolitan Magistrate for Exclusive Trial of CCB Cases and CBCID
Cases at Egmore
- 2.Central Prison,
Puzhal, Chennai.
- 3.The Inspector of Police,
Central Crime Branch,
ALGSC -I, Team – XVII,
Vepery, Chennai – 600 007.
- 4.The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.18122 of 2023

G.CHANDRASEKHARAN. J.

sma

Crl.O.P.No.18122 of 2023

31.08.2023