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Crl.O.P.No.23819 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.23819 of 2023

N.Muthu S/o. Nelliyan

... Petitioner/Accused No.2

Vs.

1.State Rep. by
The Inspector of Police,
CCB, Vepery,
Chennai.

2.Gandhimathi W/o. Thirugnanasambandam

(Crime No.16 of 2022)

... Respondent

[R2 suo motu impleaded as per
order of this Court dated
03.11.2023 made in
Crl.O.P.No.23819 of 2023]

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.16 of 2022 pending on
the file of the respondent Police.

For Petitioner : Mr.R.Prabakar

For Respondents

For R1 : Mr.R.Kishore Kumar

Government Advocate (Crl.Side)

For R2 : Mr.Lieutenant Colonel Ganesan



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ORDER

The petitioner/A2 seeks bail in Crime No.16 of 2022, registered by the respondent police for the offences punishable under Sections 406, 420 and 120(B) of IPC.

2.The Investigation in this case has at chequered history. Originally, the petitioner/A2 was taken into custody on 08.06.2022 and subsequently, he had been granted bail on 04.07.2022. At that particular point of time, a condition had been imposed that he should deposit title deeds to a property worth about Rs.20,00,000/-. Accordingly, title deeds had also been deposited. Subsequently, the defacto complainant then filed an application before this Court in CrI.O.P.No.17012 of 2023 seeking interference with that particular order granting bail.

3.A learned Single Judge of this Court, by an order dated 24.03.2023 had cancelled the bail granted to the petiitoner herein. Therefter, the petitioner had been taken again into custody on 24.08.2023. The petitioner now seeks bail again.



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4.The learned counsel for the intervenor is present who raised grievances that the intervenor had been put to loss to a sum of Rs.1,50,00,000/- and therefore, deposit of title deeds worth about Rs.20,00,000/-, would be hardly sufficient to cover the loss suffered by the defacto complainant.

5.It is also complained that after the bail had been cancelled by the learned Single Judge of this Court, the petitioner herein had absconded effectively for more than five months and after much effort, the respondents were able to secure him. It is therefore imputed that if the petitioner granted bail, he would once again abscond from the process of trial and that the defacto complainant would be left with high and dry.

6.The learned counsel for the petitioner however stated that the petitioner is prepared to deposit title deeds for yet another property which according to him the guideline value is about Rs.30,00,000/- and that the market value would be about Rs.60,00,000/-.



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7.This Court had sought assistance of the Metropolitan Magistrate for CCB/CBCID Cases and had directed to value the property relating to which title deeds had been submitted by the petitioner consequent to an order dated 04.07.2022. However, a report had not yet been forwarded by the Metropolitan Magistrate.

8.Let me therefore put it as a condition that if it is found that the valuation given by the petitioner when he first deposited the documents are not correct and had actually over valued the properties and thereby mislead the Court granting him petitioner then straight away, either the defacto complainant or the respondent are at liberty to seek cancellation of earlier bail order.

9.The same caveat is again extended and direction is given to the petitioner herein to deposit title deeds of a property worth about Rs.30,00,000/- either one property or two separate properties produced to the satisfaction of the Metropolitan Magistrate for CCB/CBCID Cases, Egmore, Chennai. The amount of Rs.30,00,000/- stipulated by this Court should be the guideline value of the property not the market value. The said valuation may be verified by the learned Metropolitan Magistrate.



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10.It is also stated by the learned Government Advocate (CrI. Side) for the respondent that investigation had been completed and final report had been filed before the jurisdictional Metropolitan Magistrate Court on 11.11.2023. The same is yet to be taken cognizance by the Metropolitan Magistrate. But this would effectively mean that the respondent/Investigating Agency have completed the investigation by recording statement of witnesses by collecting necessary documents and all other material records required to prove the case as against the accused beyond reasonable doubt.

11.The defacto complainant should focus on tender admissible evidence which would assist the prosecution in ensuring that the case is proved beyond reasonable doubt. That should be the focus of the defacto complainant.

12.With direction to the petitioner to deposit further title deeds of the property for guideline value of Rs.30,00,000/-, I am inclined to grant bail to the petitioner with certain conditions:



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13. 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 for a like sum to the satisfaction of the Principal Sessions Judge, Chennai, 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 deposit further title deeds of the property (stands in the name of the petitioner or his wife or relatives or friends) worth about Rs.30,00,000/- before the Metropolitan Magistrate, CCB/CBCID Cases, Egmore, Chennai.

[c] the petitioner shall report before the Metropolitan Magistrate, CCB & CBCID Cases, Egmore, Chennai, where the final report had been filed on 11.11.2023, on every Monday at 10.30 a.m., till completion of trial, apart from the Court hearing dates.

[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.



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[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

12.12.2023

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C.V.KARTHIKEYAN, J.

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To

1. Principal Sessions Judge, Chennai.
2. The Inspector of Police,
CCB, Vepery,
Chennai.
3. The Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

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