



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 11/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD). No.734 of 2023

WEB COPY

S.Arumuga Nainer

... Petitioner/Accused No.2

Vs

The State Rep. by,
The Inspector of Police,
Tirunelveli EOW Police Station,
Tirunelveli District.
Crime No.4 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Mohan Gandhi S.M.,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

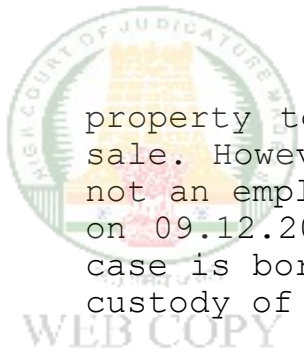
For Bail in Crime No.4 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 09.12.2022 for the offences punishable under Sections 408, 409, 463, 467, 468, 471, 420 and 120(b) of IPC in Crime No.4 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the land situated in S.No.853/1 belonged to State Bank of India, Employees Co-operative Society. The plots in this land can only be sold to the SBI employees. However, A1 prepared forged documents and sold the same to the petitioner herein. Since the petitioner is not an employee of SBI and due to the sale of plots to A2 by A1, complaint was lodged by the Deputy Registrar (Housing), Tirunelveli and the respondent police registered the above said offences.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a senior citizen and he is an innocent person and he has been falsely implicated in this case. He would further submit that during his employment at State Bank of India, he was inducted as a Co-operative Society Member, based on which, allotment was given to him during the year 2003 and the petitioner was in possession of the property from 2003 and later, he has sold the



property to a subsequent purchaser. There is no illegality in the sale. However, based on a false complaint, as if the petitioner was not an employee, a case has been registered and he has been arrested on 09.12.2022. He would further submit that the entire prosecution case is borne out by records and there is no requirement for further custody of the petitioner and thereby, he would seek for bail.

4.The learned counsel for the petitioner would further submit that this is the second application for bail and the earlier application was dismissed by this Court in Crl.O.P.(MD)No.23325 of 2022, on 28.12.2022 stating that the investigation is at the initial stage.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner, who was not an employee of the State Bank of India, by fabrication of documents with the help of A1, got membership in the State Bank of India, Employees Co-operative Society, based on which, he has got allotment of a plot and thereby, they have caused loss to the society and he would oppose for grant of bail.

5.At this juncture, the learned counsel for the petitioner would submit that without prejudice to his defence, is ready and willing to file an affidavit of undertaking before the learned Magistrate stating that he will not encumber the property in future.

6.Heard. Perused the materials available on record including the First Information Report.

7.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this court is inclined to grant bail to the petitioner , subject to the following conditions:

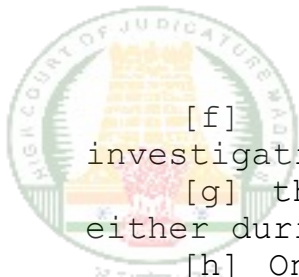
[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Tirunelveli, and on further conditions that:

[b] 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.

[c]after coming out on bail, the petitioner shall file an affidavit of undertaking before the learned Magistrate stating that he will not encumber the property in future.

[d] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter on every Saturday at 10.30 A.M., until further orders.

[e] the petitioner shall not commit any offences of similar nature.



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

[g] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[h] 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].

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

sd/-

11/01/2023

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11/01/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE JUDICIAL MAGISTRATE NO.II,
TIRUNELVELI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
4. THE INSPECTOR OF POLICE,
TIRUNELVELI EOW POLICE STATION, TIRUNELVELI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.MOHAN GANDHI S.M., Advocate (SR-551[I] dated 11/01/2023)

ORDER

IN

CRL OP(MD) No.734 of 2023

Date :11/01/2023

USK/VR/SAR- /11.01.2023/3P/7C