



WEB COPY

CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02.06.2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD)No.8673 of 2023

Elayaraja

... Petitioner/Accused No.2

Vs

State rep by
The Inspector of Police,
District Crime Branch Police Station,
Trichy
(Crime No.22 of 2022)

... Respondent/Complainant

For Petitioner : Mr.S.Paul Murugesh, Advocate
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.22 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 10.04.2023 for the offence under sections 420, 467, 471 and 34 IPC in Crime No.22 of 2022 on the file of the respondent police seeks bail.

2.The case of the prosecution is that the defacto complainant is having ancestral property in Einoor village. The father of the defacto complainant filed a suit against wives of Mariyaiya viz., Pangajathammal, Prakalambal and Dhanapakiyathammal and as per judgment of the suit, the father of the defacto complainant was in possession and enjoyment of the property. After his demise, the defacto complainant and his brothers are in joint possession of the property. A3 and her family members have no right over the property. While that being so, A3 colluded with A2, forged the documents and registered two sale deeds and the same were executed in favour of A1, while suit in O.S.No.204 of 2008 was pending. Hence the case.



3. Heard both sides and perused the materials available on record including the First Information Report.

4. It is seen that there was property dispute between the defacto complainant and one Dhanapakiyathammal in respect of subject property. The said Dhanapakiyathammal had executed power of attorney in favour of the petitioner and in turn, the petitioner executed sale deed in favour of A1. In fact, 2020 itself, the defacto complainant filed suit in O.S.NO.96 of 2020 as against the said Dhanapakiyathammal and others for partition, in respect of the very same subject property.

5. Further the defacto complainant lodged complaint and the same was not registered by the respective jurisdictional Court. Therefore, the defacto complainant filed a petition under Section 156(3) Cr.P.C., and as per direction the present case has been registered. Further, the petitioner was arrested and remanded to judicial custody on 10.04.2023

6. Taking into consideration of the above facts and circumstances and also 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 blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Special Court to try Land Grabbing Cases, Trichirappalli 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.

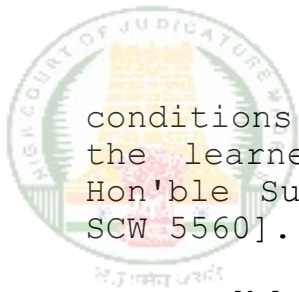
[c] the petitioner shall report before the respondent police daily at 10.30 am., for a period of two weeks and thereafter, as and when required.

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

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

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

[g] 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 or 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].

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

sd/-

02/06/2023

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02/06/2023

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

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TO

- 1 THE JUDICIAL MAGISTRATE, SPECIAL COURT TO TRY LAND GRABBING CASES, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON TRICHY.
- 4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH POLICE STATION, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8673 of 2023

Date :02/06/2023

RS/VR/SAR-(02.06.2023) 3P 6C