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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22655 of 2022

Kanagaraaj

... Petitioner/Accused No.2

Vs

1 State rep. by

The Inspector of Police,
Y.Othakkadai Police Station,
Madurai District.
Crime No.57 of 2021.

... 1st Respondent/Complainant

**(*) 2.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Madurai District,
Madurai.**

... 2nd Respondent

**(*) (R2 is impleaded as per the order of
this court dated 20.01.2023 in Crl.M.P
(MD)No.1069 of 2023 in Crl.O.P(MD)
No.22655 of 2022)**

Ranjani

... Petitioner/Proposed 3rd Respondent
/Defacto Complainant

in CRL MP(MD).16241/2022 in CRL OP(MD).22655/2022

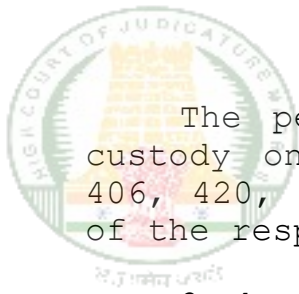
For Petitioner : Mr.T.Kumar, Advocate
for M/S.M.Ganeshkamu, Advocate
For Respondents : Mr.T.Senthilkumar,
Additional Public Prosecutor
For Intervenor : Mr.M.Thirunavukkarasu, Advocate
for M/S.S.Vanchinathan, Advocate

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

PRAYER :-

For Bail in Crime No.57 of 2021 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 02.12.2022 for the offences punishable under Sections 406, 420, 294(b) and 506(ii) IPC in Crime No.57 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the defacto complainant Rajini is that she is the owner of the house situated at Thirumohur, Y.Othakkadai. The first accused expressed his willingness to purchase the property and he was introduced to the defacto complainant by the petitioner/A2 and the third accused. On 05.11.2020, the first accused decided to purchase the property at the cost of Rs.25 lakhs and accordingly, the defacto complainant executed the sale deed in favour of the first accused and the same is registered vide document No.1/6521/2020 and in the sale deed, the cheque bearing No.686423 to the tune of Rs.25 lakhs was mentioned as sale consideration. After registration of sale deed, the said cheque was taken back and the first accused failed to pay the sale consideration to the defacto complainant. The defacto complainant asked the first accused to pay the sale consideration, as promised by him. On 15.12.2020, the first accused deposited a sum of Rs.10 lakhs in the account maintained by the petitioner. Whenever the defacto complainant asked the first accused to pay remaining sale consideration, the petitioner herein along with other two accused threatened the defacto complainant with dire consequences and abused her with filthy language Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and the case has been fabricated against him. He would further submit that the petitioner is neither a beneficiary in the transaction nor the purchaser of the property. He would further submit that the petitioner has only signed as a witness in the sale deed and thereby he has been falsely implicated in this case. He would also submit that the petitioner is in judicial custody from 2.12.2022 and investigation is almost over. It is his further submission that the case of the prosecution is borne out by documents. He added that the first accused in this case is the purchaser of the property and during the hearing of the bail application before the lower court, the first accused has offered to pay Rs.25 lakhs to the defacto complainant. hence, he seeks for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with main accused colluded and they cheated a poor widow on the assurance of paying the sale consideration of Rs.25 lakhs and before registering the document, the first accused had given a cheque and after registration of the property, he had taken back the said cheque. The petitioner/A2 is a person, who handed over another cheque and later that cheque was also taken back by him. The learned Additional Public Prosecutor would further submit that the petitioner is the main accused and he is a beneficiary in the transaction. He would



object for grant of bail to the petitioner.

5.The learned counsel for the intervenor would submit that the defacto complainant is the poor widow and she had a house property in Thirumohur, Y.Othakkadai and the petitioner and the other accused stated that they are ready to purchase the property for Rs.25 lakhs and took her to the Registration Office and handed over a cheque for Rs.25 lakhs and after registration of the sale deed, they have taken back the cheque on the assurance that they will pay the amount by cash and later they have cheated the defacto complainant. He would submit that whenever she asked money, the accused have abused the defacto complainant. Hence he prays for dismissal of this application.

6.Heard. Perused the materials available on record.

7.Taking into consideration of the facts and submissions made by the learned counsels and after perusing the materials available on record and considering the period of incarceration, this Court is inclined to grant bail to the petitioner. Accordingly, bail is granted to the petitioner subject to the following conditions:

(a) The petitioner is ordered to be released on bail on condition to execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)**, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Melur, Madurai District, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before the 2nd respondent police daily at 10.30 a.m., until further orders;

(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 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** [SCW 5560]; [R

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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20/01/2023

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20/01/2023

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

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TO

- 1 THE JUDICIAL MAGISTRATE, MELUR, MADURAI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE, Y.OTHAKKADAI POLICE STATION,
MADURAI DISTRICT.
- 4 THE INSPECTOR OF POLICE, ANTI-LAND GRABBING SPECIAL CELL,
MADURAI DISTRICT, MADURAI.
- 5 THE SUPERINTENDENT, CENTRAL JAIL, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.22655 of 2022
Date :20/01/2023

RS/VR/SAR.(20.01.2023) 4P-7C