

IN THE COURT OF THE SPECIAL JUDICIAL MAGISTRATE, MADURAI
(SPECIAL COURT FOR EXCLUSIVE TRIAL OF LAND GRABBING CASES, MADURAI)

Present : Tr.R.Rajalingam, M.B.A., L.L.B.,
Special Judicial Magistrate (FAC), Madurai
Crl.M.P.No.182/2020

in

Crime No.41/2020

Dated this the 17th day of August 2020

S.Kandasamy (aged 56 yrs.) .. Petitioner/Accused (A5)
S/o.Subbapillai

Vs.

State of Tamilnadu
Rep. by Sub Inspector of Police
CCB PS, Madurai District
(Crime No.41/2020)

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Respondent/Complainant

This application for Bail is filed u/s.437 of Cr.P.C. which came up for hearing in the presence of counsel for the Petitioner/Accused Tr.R.Babujaganath and upon final hearing the petitioner counsel and perusing the reply of the learned Additional Public Prosecutor Tr.M.Chockalingam, this court pronounce the following,

ORDER

1) The petitioner in his Bail petition stated that the respondent police has registered a case against the petitioner/accused (A5) for alleged offence u/s.419, 420, 463, 465, 468, 471, 120(b) of IPC and upon arrest of the accused this court remanded the petitioner/accused in the judicial custody on 13.08.2020 and the petitioner/accused into is behind the bar for the past 5 days and during the petition enquiry the petitioner counsel produced medical records for the petitioner Kandasamy and stated that the petitioner has sustained severe injury in his left hip and undergoing treatment at Jeyam Hospital, Madurai. The petitioner also filed a copy of release deed executed by K.Sundaramahalingam (A2) in favour of V.S.Mahalingam who is the defacto complainant in this case. The petitioner counsel further contended that in so far as the present petitioner/A5 is concerned, he is the mere attestor of the deed and

there is no specific overt against the present petitioner. The petitioner counsel produced anticipatory bail order copy of the Hon'ble High Court in CrI.O.P.(MD) No.7880 and 7895 of 2020 in which the Hon'ble High Court has enlarged A2 K.Sundaramahalingam and A4 Muruganandham on anticipatory bail. The learned counsel for the petitioner drawn attention of this court to the para 6 of the above order copy, in which the Hon'ble High Court observed that "A2 is claiming to be a bonafide purchaser and has now executed a release deed in favour of the defacto complainant and A4 is the attesor. Hence, inclined to grant anticipatory bail" and it is the further contention of the learned counsel for the petitioner that the A5, the present petitioner herein also mere attesor of the deed and he has no role in the alleged commission of offence and considering A2 and A4 who has been already enlarged on bail by the Hon'ble High Court and the A3 who has been released on station bail and thus prayed for enlarging the present petitioner/A5 on bail. On the other hand, the learned Additional Public Prosecutor in his reply strongly opposed to enlarge the petitioner/A5 on bail. The learned Additional Public Prosecutor has contended that the other accused are still absconding, the investigation is pending, the present petitioner conspired along with other accused and stood as witness in the cancellation of sale deed executed by A1. The other accused created false and forged document and committed the said offences by way of impersonation with intend to grab the land from the inception and if the petitioner is enlarged on bail and he may tamper the investigation.

2) Rival submission were heard, records perused.

3) On perusal of records, it reveals that 3 acre 91 cents of the property belongs to V.S.Mahalingam who is the administrative partner in Muthuvel Auto Finance, Muthuvel Credit. On 14.3.2013 as per the document No.4786/2013 the defacto complainant purchased the above property from the first accused and thereafter with a view to grab the land of the defacto complainant the first accused on 25.5.2013 as per the document No.5083/2013 executed a sale deed in favour of the

second accused and thereafter on 10.6.2014 as per document No.3881/2014 impersonated the defacto complainant and cancelled the sale deed which the defacto complainant obtained from the first accused on 14.3.2013 and the other accused with intention to cheat the defacto complainant conspired together and actively aided the first accused in commission of offence. On bare perusal of the FIR content, it is crystal clear that A1 has actively played role in commission of alleged offence and apart from that the present accused S.Kandsamy is concerned, he has signed as attesting witness to the sale cancellation deed executed by A1 S.Rajendran and considering that there is no specific allegation and overt against this petitioner and the fact that already the A2 K.S.Sundaramahalingam has executed release deed in favour of the defacto complainant and which was referred to in the order copy produced by the counsel for the petitioner and regard being given to the age of the accused and his medical records this court is inclined to grant bail to the petitioner on the following conditions,

(i) The petitioner shall execute bond for a sum of Rs.50,000/- for present, before the prison authority,

(ii) Within two weeks after the lockout in view of Covid-19 is over, the petitioner shall furnish two sureties for Rs.50,000/- for like sum to the satisfaction of this court and the petitioner & the sureties shall affix their photographs and left thumb impression in the surety bond,

(iii) The petitioner shall report before the respondent police as and when required for interrogation,

(iv) The petitioner shall not tamper evidence or witness either during investigation or trial.

(v) The petitioner shall not abscond either during investigation or trial.

This order is dictated to the Steno-typist, typed by him directly in the computer, corrected and pronounced by me in the open court on this the 17th day of August 2020.

(Sd.) R.Rajalingam, M.B.A.,L.L.B.,
Special Judicial Magistrate (FAC),
Madurai

List of documents:-

- 1) Copy of Release Deed dated 30.07.2020 bearing Document No.4305/2020.
- 2) Copy of Anticipatory Bail Order made in Crl.O.P. (MD) Nos.7880 & 7895 of 2020.
- 3) Copy of medical records of the petitioner Mr.Kandasamy.