

Muthulingam vs State Rep by

Muthulingam vs State Rep by

SooperKanoon Citation : sooperkanoon.com/1697952

Court : Chennai

Decided On : Jan-21-2025

Judge : Honourable Mr Justice a.D.Jagadish Chandira

Appeal No. : CRL OP/69/2025

Appellant : Muthulingam

Respondent : State Rep by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Muthulingam ... Petitioner Vs. The State represented by, The Inspector of Police, CCB III, Land Fraud Investigation Wing -2, Vepery, Chennai - 600 007. (Crime No.182 of 2024). ... Respondent PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleased to enlarge the petitioner on bail, in connection with Crime No.182 of 2024, pending investigation on the file of the respondent Police. For Petitioner :

Mr.T.I.Ramanathan For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side) For Intervenor : Mr.J.Balachander

ORDER

Petition seeking bail in respect of Crime No.182 of 2024 registered for the offences punishable under Sections 420, 465, 467, 468 and 471 of IPC, is on board for consideration.

2. The incarceration of the petitioner/A1 being from 25.10.2024

pleading innocence on the part of the petitioner and false implication in the case, learned counsel for the petitioner seeks indulgence of this Court. He also submits that the allegation against the petitioner is that he had fabricated the documents, whereas, the fact remains is that, the petitioner, believing the documents of the year 1974, had purchased the subject property in the year 1989 after paying a considerable amount. He further submits that civil litigations are pending in respect of the said property. He also submits that the petitioner has nothing to do with the alleged offence and he is suffering incarceration for more than 80 days. He further submits that the police custody of the petitioner has already been taken in this case and the major part of the investigation is also over, therefore, further custody of the petitioner may not be required in this case. He further submits that the petitioner is ready to abide by any stringent condition that may be imposed by this court.

3. The case of the prosecution as put forth by the learned Government

Advocate (Criminal Side) appearing for the respondent police, opposing for grant of bail, is that on the complaint given by one Sathyapriya, District Registrar, South Chennai, alleging that certain false entries were made by way of insertion in the records of the SRO, Saidapet, in respect of properties in Survey Nos.166/1, 166/3 and 167/1 in respect of 4.62 cents, a case in Crime No.182 of 2024 came to be registered by the respondent Police.

4. He further submits that during the course of investigation, it came to

light that at the instance of the petitioner/A1, A2 had entered into a registered sale agreement in order to create encumbrance in respect of the subject property illegally. The investigation reveals that the property was purchased by one Girija in the year 1964 and 1969 and the original documents are with her legal heirs. He also submits that though, one Devendran/A2 claims that he is only an agreement holder, investigation reveals that A2 himself on 02.07.2021 has given a letter to SRO seeking for index correction in respect of sale agreement in the Document No.189 of 1987 and in the column of request of index correction, A2 had stated that the document was wrongly shown as mortgage deed instead of sale deed and that earlier document number was not inserted. Further, he had specifically claimed that he had purchased the property and he is the owner of the property. He also submits that during the course of investigation, the signature of the said Devendran/A2 found in the letter tallied with the signature found in the sale agreement and in subsequent cancellation deed. Further, the

petitioner has also confessed that A2 is an accomplice and he has also assisted others in the creation of fabricated document. He further submits that based on the inserted fabricated documents, A2 has also subsequently obtained information through RTI from the Registration Department in order to fortify their case, whereas, all those documents were obtained based on fabricated document. He also submits that the petitioner along with other accused, who are land sharks, by taking advantage of absentee owners, used to indulge in creating fabricated documents, insert them in the SRO office and by creating encumbrance and filing of collusive suits, caused much inconvenience and loss to the original owners of the property. He further submits that it is a case of tampering of official records which is a serious offence and the investigation is still pending, thereby, he opposed for grant of bail to the petitioner.

5. Mr.J.Balachander counsel appearing for the de facto complainant

submits that the properties were purchased by Mrs.Girija vide two documents in the year 1964 and 1969 and she was in continuous possession of the property and after her death on 19.07.2004, the properties have devolved on her two children, who are living in India and USA respectively. The accused, finding that the landlords are absent, created fabricated document and inserted in the

SRO office and attempted to grab the property. Hence, he vehemently opposed for grant of bail to the petitioner.

6. Having heard the learned counsel appearing for both sides and

perused the materials available on record and considering the period of incarceration undergone by the petitioner and taking note of the fact the case is borne out by documents and further, the custody of the petitioner has already been completed, this court is inclined to grant bail to the petitioner with certain conditions and accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Metropolitan Magistrate, CCB and CBCID Cases Court, Egmore, 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 report before the respondent Police, everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial; [d] the petitioner shall not tamper with evidence or witness either during investigation or trial; [e] 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]; [f] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of B.N.S.

21.01.2025 ham To

1. The Metropolitan Magistrate for CCB and CBCID Cases Court, Egmore, Chennai.
2. The Inspector of Police, CCB III, Land Fraud Investigation Wing -2, Vepery, Chennai - 600 007.
3. The Superintendent, Central Prison, Puzhal.
4. The Public Prosecutor, High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.

ham 21.01.2025

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com