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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMALKUMAR

Crl.O.P.No.11815 of 2020

N.RaviShankar .. Petitioner

Vs.

1.The State by
The Inspector of Police
G10, Anaicut Police Station,
Chengalpattu District.
Crime No.244 of 2017 ..Respondents

C.Shantha [PETITIONER / INTERVENER DE-FACTO COMPLAINANT]

[ORDERED AS PER ORDER OF THIS COURT DATED 04/09/2020 IN CRL.MP.4914/2020 IN CRL.O.P.NO.11815/2020]

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.244 of 2017 pending investigation on the file of the respondent police.

For Petitioner : Mr. A.R.Nixon

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor
for R1
Mr.R.Ganesh Kumar for R2

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 420, 120 (B), 465, 468, 471, 419, 34 IPC,, in Crime No.244 of 2017 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner's father was absolute owner of some properties in and around Uluthamangalam Village. The disputed property is situated at Uluthamangalam Village, Cheyyur Taluk, Kancheepuram District in Survey No.22/1 measuring to an extent of 0.62 cents, which was purchased by the defacto complainant's father/D.Muthusamy Mudaliar from one

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Mr.Venkatasami Reddiar by a sale deed dated 06.04.1960 registered as Document No.1041/1960 in SRO, Madhuranthakam. The said Muthusamy Mudaliar passed away on 10.09.2010. After the demise of the defacto complainant's father, the legal heirs of Muthusami Mudaliar, contemplated to sell the property and obtained encumbrance certificate. On obtaining the encumbrance certificate, they found that the first accused, who is the wife of the second accused, had created forged document through an unregistered will of the year 1987 and another registered will dated 09.02.1993, claiming ownership over the said property. Thereafter, the first accused created a forged sale deed to convey the property belonging to the defacto complainant compromised in Survey No.22/1 to an extent of 62 cents through a registered sale deed dated 24.11.2011 in the office of SRO, Maduranthagam to the third accused. The petitioner along with other accused had conspired in preparation of the forged documents and committed the offence of forgery and cheating. Hence, the defacto complainant lodged a complaint to the respondent police on 21.11.2016.

3. The contention of the petitioner is that the petitioner is the Chairman & Managing Director of Triway Group of Companies and he paid income tax to the tune of Rs.2,14,63,389/- for the year 2019-2020. The petitioner's company was awarded as"Exim Achievement Award" for four consecutive years as 1st position in Chennai customs, i.e., 2010-2014. The petitioner received awards from the Governor of Tamil Nadu and Vice President, and he has got a reputation in the society. At this stage, the petitioner received summons on 28.07.2020 from the respondent Police to appear for enquiry on 03.08.2020. Thereafter, the petitioner came to know about the dispute was in purchase of the property. The petitioner purchased the properties to the extent of 44 acres 20 cents from various persons for the purpose of setting up an Industrial Project under the supervision of one Mr.Udayabanu, who was the employee of the petitioner's company. Subsequently, she died in the year 2017. In fact, the third accused purchased the property from the first accused by way of sale deed in Document No.7248/2011 on 24.11.2011. Thereafter, the third accused sold the property for consideration to the petitioner by way of sale deed in Doc.No.378/2012 dated 23.01.2012. When the petitioner came to know about the dispute in title over the property, the petitioner cancelled the sale deed by document No.378/2012 on 07.08.2020. Further, he submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. The learned counsel appearing for the defacto complainant/second respondent submitted that he filed Crl.M.P.No.4914 of 2020 for intervention and typed set of papers, which reiterates whatever stated in the complaint. Added to it, he further submitted that the first and second accused in this case were claiming right over the property by way of unregistered will in the year 1987 and registered will dated 09.02.1993. In both wills, the property compromised in Survey No.22/1 is not mentioned. By creating forged sale deed, the accused claimed right over the property and the sale deed was executed in favour of the third accused. The third accused, within 30 days from purchasing the

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property, had created forged document and sold the property in favour of the fourth accused/petitioner. Thereafter, the defacto complainant had lodged a complaint on 02.11.2016 and initially, C.S.R was registered. Finally, on 18.7.2017. F.I.R came to be registered in this case. Thereafter, no action was taken and only during the year 2020, summon was sent to the accused for enquiry. The petitioner was served summon on 28.07.2020 and called for enquiry on 03.08.2020. On receipt of summon, he filed the above petition. Further, he submitted that the petitioner had cancelled the document No.387/2020 by filing cancellation deed No.1952/2020, with regard to the encumbrance created by the third accused in Document No.7248/2011 still exists and the encumbrance created by the first and second accused are to be cancelled. The third accused is none other than a close friend of the petitioner. Hence, he opposed for grant of anticipatory bail.

5. The learned Additional Public Prosecutor submitted that in this case, complaint was given on 02.11.2016. Since it appears to be a civil dispute, CSR was assigned. Later, on verification of the records, it is known that by creating forged documents, the accused claimed right over the property. Hence, the case in Crime No.244 of 2017 was registered. Thereafter, during enquiry, summon was sent to the petitioner and also to the other accused. In this case, A1, A2 and A5 were already granted anticipatory bail in the year 2018. During the enquiry, complicity of A3 and A4 came to light. Thereafter, summon was sent to A3 and A4. A4 had filed this anticipatory bail. Further, submitted that now, A4 has cancelled the sale deed.

6. Considering the rival submissions, this Court finds that the petitioner/A4, on coming to know about the dispute in the title, had immediately contacted A3 and cancelled the sale deed in document No.378/2020 by filing cancellation deed No.1952/2020. The petitioner had acquired 44 acres 20 cents in that area for construction of a factory and he is a business man, who is paying huge income tax and also recipient of the awards. The petitioner had purchased the property on a wrong premise and he had now corrected and restored the property from whom, he purchased and cleared the encumbrance. Hence, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days after lifting of lockdown of the commencement of the Court's normal functioning whichever is earlier, before the **learned Judicial Magistrate, Mathuranthakam**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which , the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy

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of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police as and when required

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

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

[g] 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].**

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

With the above directions, this Criminal Original Petition is ordered.

-sd/-
04/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
MATHURANTHAKAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
G10, ANAICUT POLICE STATION,
CHENGALPATTU DISTRICT.

CC to M/S A.R.NIXON Advocate on payment of necessary charges

CRL OP.11815/2020

Date :04/09/2020

TA-25/09/2020

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