

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.12014 of 2020

and

Crl.M.P.No.5791 of 2020

V.Raghuraman,
S/o.Vijayaranga Reddiar

.. Petitioner

/versus/

1.The Inspector of Police,
G-10, Anaicut Police Station,
Kancheepuram District.
Crime No.244 of 2017.

2.C.Shantha

.. Respondents

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest by the respondent Police concerned in Crime No.244 of 2017 on the file of the Inspector of Police, G.10, Anaicut Police Station, Kancheepuram.

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 420, 120(B), 465, 468, 471, 419, 34 IPC, seeks anticipatory bail.

2.The case of the prosecution is that the disputed property is situated at Uzhuthamangalam Village, Cheyyur Taluk, Kancheepuram District in Survey No.22/1 measuring to an extent of 62 cents, which was purchased by the defacto complainant's father/D.Muthusamy Mudaliar from one Mr.Venkatasamy 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 Muthusamy 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 learned counsel for the petitioner submitted that there are totally six accused in this case and the petitioner is arrayed as A3. The petitioner had purchased the property to an extent of 62 cents of land in Survey No.22/1 situated at Uzhuthamangalam Village, Cheyyur Taluk, Kancheepuram District through a registered sale deed dated 24.11.2011 vide Document No.7248/2011 in the office of SRO, Maduranthagam. The petitioner had purchased the property for valid consideration. Thereafter, the petitioner sold the said property to A4 through a sale deed dated 26.12.2011 vide Document No.378 of 2012 dated 23.01.2012 in the office of SRO, Maduranthagam. He further submits that the sale deed took place in the year 2011, after six years the defacto complainant lodged a complaint and no reason is been given as to why the delay occurred. The petitioner came to know about the dispute in the title of the property only after he was called for enquiry by the respondent. The fourth accused to whom the petitioner sold the property came forward to

cancel the sale deed Document No.378/2012. On 07.08.2020 the cancellation of sale deed was registered as Document No.1952 of 2020. Thereafter, immediately the petitioner called A1 and A2 from whom the petitioner purchased the property to execute the cancellation deed. A1 and A2 having obtained anticipatory bail are now refusing to cooperate with the petitioner to cancel the sale deed. He also submitted that he will not make any claim, right, title or interest over the disputed property in Survey No.22/1 measuring to an extent of 62 cents situated at Uluthanmangalam Village, Cheyyur Taluk, Kancheepuram. The petitioner filed an affidavit stating that he will surrender the original sale deed dated 24.11.2011 Document No.7248 of 2011 and to file a similar affidavit at the time of executing sureties before the Lower Court. Hence, he prays for anticipatory.

4.The learned Additional Public Prosecutor submitted that A1 and A2 were granted Anticipatory Bail. The petitioner had created forged documents in connivance with A1 and A2, now encumbrance to the property has been created. It was found that A1 and A2 were not residing in the address provided by them in the petition. Thereafter, they were contacted and informed to appear before the Investigation Officer for the purpose of investigation, but A1 and A2 failed to appear before the Investigating

Officer, despite one of the condition of this Court while granting anticipatory bail is that A1 and A2 shall appear before the respondent Police as and when required. In view of the same, steps are being taken to file a petition for cancellation of anticipatory bail granted to A1 and A2. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the defacto complainant submitted that A1 to A3 by colluding with each other, created forged and fabricated documents, grabbed the property of the defacto complainant. Infact on earlier occasion, A1 to A3 contacted the defacto complainant and approached for compromise on their terms, which was not agreeable to the defacto complainant. He further submitted that A3 claim of ignorance is false, A1 to A3 are acting in consultation and in tandem with each other, in creating forged documents and using the same usurped the property of defacto complainant, their subsequent conduct in being elusive and evasive to cancel the forged document in part of their conspiracy. The counsel for the defacto complainant further submitted that FIR in Crime No.244 of 2017, is now transferred from the file of Judicial Magistrate Maduranthakam to the file of Judicial Magistrate, Cheyyur.

6. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor as well as the learned counsel for the defacto complainant.

7. The petitioner filed an undertaking affidavit before this Court, in paragraph 5 and 6 of the affidavit he has stated as follows:

“ 5. I submit that having come to know that the first accused had no title, I had also expressed my intention of cancelling the sale deed standing in my favour to the first accused herein, however she did not extend cooperation in performance of her part in cancelling the sale deed, therefore I am swearing this affidavit before this Court, that I shall not claim any right, title or interest in present as well as in future over the property situated at 79, Uzhuthamangalam Village, Cheyyur Taluk presently Chengelpet District comprised in S.No.22/1 of uzhuthamangalam Village extending to about 62 cents conveyed under the Sale Deed dated 24.11.2011 vide Document No.7248 of 2011 in the office of SRO Madhuranthakam.

6. I further submit that to show my bonafides, I am prepared to surrender the original sale deed dated 24.11.2011 vide Document No.7248 of 2011 in the office of SRO Madhuranthakam at the time of executing sureties to the custody of concerned Mgistrate Court.”

8.Taking note of the facts and circumstance of the case and

considering the undertaking affidavit filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions.

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) within a period of 15 days from a date of receipt of a copy of this order with two sureties each 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) while executing sureties the petitioner shall file an affidavit similar to one filed before this Court and shall surrender the original sale deed dated 24.11.2011 vide Document No.7248 of 2011 before the concerned Court.

(c) 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 respondent Police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

(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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

9.With the above directions, this Criminal Original Petition is ordered. Consequently, connected miscellaneous petition is closed.

01.10.2020

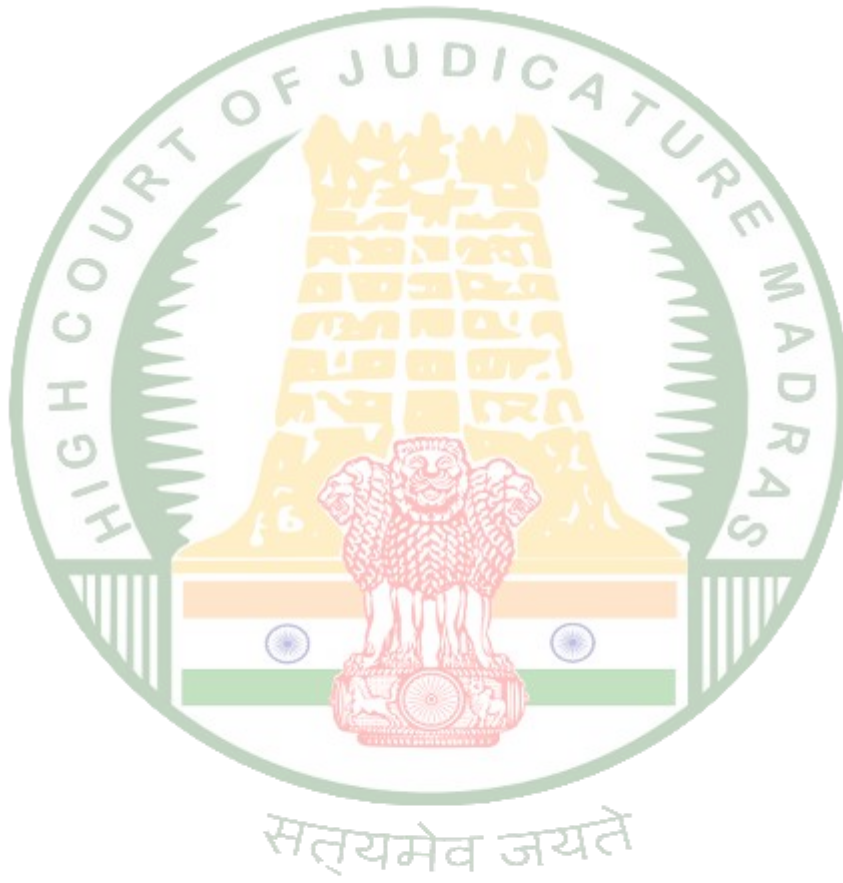
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To

1.The Inspector of Police,
G-10, Anaicut Police Station,
Kancheepuram District.

2.The Judicial Magistrate, Cheyyur,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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