

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

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THE HON'BLE MRS. JUSTICE **T.V.THAMILSELVI**

CrI.O.P.No.12893 of 2021

V.Nepoleon ... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
District Crime Branch,
Dharmapuri.

2.A.Ravichandran ... Respondents

Prayer: Criminal Original Petition filed under Section 439(2) r/w
Section 482 of Cr.P.C., praying to cancel the anticipatory bail order dated
26.05.2021 in CrI.O.P.No.9174 of 2021, passed by this Hon'ble Court.

For Petitioner : Mr.Balan Haridas
for Mr.O.Raman

For Respondent :

For R1 : Mr.L.Baskaran
Government Advocate (CrI.Side)

For Intervenor(R2) : Mr.C.Umashankar
for Mr.G.Selvaraj

ORDER

The petitioner herein is the defacto-complainant, who has filed this application praying to cancel the anticipatory bail which was granted by this Court in Cr.O.P.No.9174 of 2021 on 26.05.2021, in favour of the second respondent against whom FIR was lodged, based upon his complaint under Section 465, 466 and 471 IPC in Crime No.9 of 2021.

2.After lodging FIR, the accused / 2nd respondent herein approached this Court for anticipatory bail and considering the facts and circumstances, this Court granted anticipatory bail with conditions. Aggrieved by the said order, the complainant / petitioner approached this Court by filing this petition praying to cancel the bail quoting the reason that he committed fraud by giving fabricated legal heir-ship certificate and executed the Registered document, ignoring the other legal heirs by misusing his position as he is employed in Police service, besides he also suppressed that he is working in Police Department, while earlier he filed anticipatory bail petition.

3.Furthermore, he already filed intervenor application, but during the vacation period he could not be properly informed, and so he was not able to appear and raise his objection. Hence, he prayed to cancel the anticipatory bail.

4.The learned Government Advocate (Crl.Side) appearing for the 1st respondent, admits that he is an employee in Police Service and also submits that, about the fake legal heir-ship certificate, the matter was referred to Revenue Divisional Officer (RDO) and RDO report is awaited, in order to file the charge sheet against the accused / 2nd respondent.

5.The learned counsel for the 2nd respondent submitted that the complainant / Nepolean claimed right over the property as legal heir of the 2nd wife of Aadhimoolan who is the father of the accused. The learned counsel also drew the attention to the Court to the document executed by other legal heirs / brothers and sisters of the accused. The sisters of the accused also gave consent to enjoy the property, covered in the

settlement and to that effect also, Release Deed was executed on 25.09.2020. He contended that originally entire property belongs to his mother Ranjitham and her brother Varadharajan and the said Varadharajan gave half of the share to his daughter Kalaimathy, who is the wife of the 2nd respondent /accused and remaining share was given to him by all other legal heirs, thereby, he claimed absolute right over the said property.

6. Admittedly, the suit was filed in the year 2018 before the Sub-Court, Arur in O.S.No.283 of 2018 by this complainant / Nepelean against the accused and other legal heirs, praying to cancel the settlement deed, which was said to have been executed, based upon the fake documents and other consequential relief. This accused and other legal heirs have appeared and filed their objections. Now, the case is under at trial stage. Hence, the case reveals that, even prior to the lodging of FIR, in the year 2018 itself, this complainant filed Civil Suit, disputing the legality of the settlement deed, against which, now he lodged FIR.

7. Therefore, already the matter was referred to the Civil forum and all the parties are contesting and it is ripe for trial. Moreover, the prosecution also shall await for the RDO report, to file a charge sheet. Since the investigation is almost completed and that the Civil Suit is pending between the parties, there would not be any hindrance to the further course of action due to the enjoyment of bail to the accused / 2nd respondent.

8. Though he has not stated that for cancellation of the bail, there may be hindrance for further course of investigation on the side of the 2nd respondent but as discussed above, considering all the facts and circumstances, no interference is required to cancel the bail by this Court.

9. Accordingly, this Criminal Original Petition is dismissed.

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21.09.2021

Index: Yes/No
Speaking/Non-Speaking order
rri

T.V.THAMILSELVI, J.

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To

1.The Inspector of Police,
District Crime Branch,
Dharmapuri.

2. The Public Prosecutor,
Madras High Court,
Chennai.



CrI.O.P.No.12893 of 2021

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