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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.12426 OF 2021

M.Velu

...Petitioner

VS.

1. State Rep by
Inspector of Police
CCB, Salem City

2. Anbazhagan

...Respondents

Prayer: Criminal Original Petition is filed under Section 439(2) of Cr.P.C., to cancel the anticipatory bail granted by an order dated 27.05.2021 passed in CrI.M.P No.1661 of 2021 on the file of the Principal Sessions Judge (Vacation Sessions Judge), Salem.

For Petitioner : Mr.R.Ezhilarasan

For 1st Respondent : Mr.C.E.Pratap
Government Advocate(CrI. Side)

For 2nd Respondent : Mr.S.Philip

ORDER

This petition has been filed to cancel the bail granted to the 2nd respondent by the Principal Sessions Judge (Vacation Sessions Judge), Salem, in CrI.M.P.No.1661 of 2021 vide order dated 27.05.2021.



2. The case of the prosecution is that the 2nd respondent is a practising advocate and he and A1 induced the de-facto complainant to purchase the property to an extent of 6.89 acres which belongs to A5 to A7 for a sale consideration of Rs.6.40 crores. Believing their words, the de-facto complainant entered into a sale agreement with A5 to A7 and paid an amount of Rs.50 lakhs as advance and Rs.30 lakhs was paid in favour of the 2nd respondent/3rd accused as commission. Thereafter, the 2nd respondent - advocate introduced one Periyasamy that he is a broker and also introduced a leading business man viz., Chandru who was willing to purchase the property to the tune of Rs.13 Crores. Believing their words, the de-facto complainant had parted with Rs.80,50,000/- to Periyasamy and other persons and thereafter, they neither registered the document nor repaid the amount parted with A5, A6, A7 and A3 and other accused persons. However, without considering the above serious allegation, the trial Court had mechanically granted anticipatory bail in favour of the 2nd respondent. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioner/de-facto complainant would submit that the entire retirement benefits was parted in the sale transaction and the accused persons had cheated him of his hard earned money and hence, he prays for cancellation of anticipatory bail granted to the 2nd respondent/3rd accused by the Principal Sessions Judge (Vacation Sessions Judge), Salem, in CrI.M.P.No.1661 of 2021 vide order dated 27.05.2021.

4. Mr.Philip, learned counsel appearing for the 2nd respondent/3rd accused would submit that the petitioner and A1 came and met the 2nd respondent who is a practising advocate asking for legal opinion with regard to the above said property. The 2nd respondent being an advocate, had conducted the case on behalf of A5, A6 and A7. However, on instructions, he would further submit that the 2nd respondent is ready to deposit a sum of Rs.10,00,000/- to the credit of Crime No.3 of 2021 and conceded that the same may be disbursed in favour of the de-facto complainant after obtaining appropriate affidavit and in the event of the 2nd respondent/3rd accused succeeding in the trial, the petitioner/de-facto complainant shall refund the amount to the 2nd respondent.



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5. This Court perused the materials including the legal opinion available on record. Except professional advice, the 2nd respondent has not rendered any other assistance to the petitioner as well as the other accused persons.

6. In view of the fact that the 2nd respondent is ready and willing to deposit a sum of Rs.10,00,000/- to show his bonafides, this Court is inclined to continue the anticipatory bail granted to the 2nd respondent subject to the following additional conditions:

(a) the 2nd respondent/3rd accused shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of Crime No.3 of 2021 before the concerned Magistrate, within a period of four weeks and thereafter, the amount shall be disbursed in favour of the de-facto complainant after obtaining appropriate affidavit. In the event of the 2nd respondent/3rd accused succeeding in the trial, the petitioner/de-facto complainant shall refund the amount to the 2nd respondent.

(b) the 2nd respondent/3rd accused is directed to execute the sureties within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Principal Sessions Judge
(Vacation Sessions Judge),
Salem.



2. The Inspector of Police,
CCB, Salem City.

3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.Duraikkan S.Phillip, Advocate, S.R.No.46250
(28/10/2021)

Cr1.O.P.No.12426 of 2021

PCH(CO)
RLP(20/09/2021)