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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI, J
Crl.O.P.No.16692 of 2021

Alamelu

...Petitioner

vs.

1. Chellamuthu

2. Muthulakshmi

3. State rep by

The Sub Inspector of Police,
District Crime Branch,
Ariyalur District.
(Crime No.2 of 2021)

...Respondents

PRAYER: Criminal Original Petition is filed to cancel the anticipatory bail granted to the respondents 1 and 2 in Crl.M.P.No.2970 of 2021 dated 17.08.2021 by the Principal District and Sessions Judge, Ariyalur.

For Petitioner : Mr.V.Illanchezian

For Respondents: Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to cancel the anticipatory bail granted in Crl.M.P.No.2970 of 2021 dated 17.08.2021 by the Principal District and Sessions Judge, Ariyalur.

2. The case of the prosecution is that the petitioner lodged a complaint before the respondent police against the 1st and 2nd respondents and other accused persons. For the sum and substance of the complainant is that family expenses, the petitioner borrowed a sum of Rs.2,00,000/- from the 1st respondent with the help of one Arjun @ Arichandran and the 1st respondent also agreed to give the loan amount of Rs.2,00,000/- with interest at 2%. Further, the respondent imposed a condition that the land of the petitioner to an extent of 50 cents has to be registered as sale in favour of the 2nd respondent and the same will be re-registered in the name of petitioner after settling the entire loan with interest. The petitioner



registered the land to an extent of 50 cents in Punjai Survey No.80/2B6 Periyavalayam village in the name of the 2nd respondent on 25.01.2021 on the file of the Sub Registrar Office, Jeyamkondan. Thereafter, the petitioner paid the interest for 12 months and after 6 months paid the principal along with interest, but the 1st and 2nd respondents refused to re-register the land in the name of petitioner, following which, one Balasubramaniam and his wife Jothi, working in police department supported the 1st and 2nd respondents and threatened the petitioner over phone. Hence, the petitioner made a complaint before the District Collector on 08.02.2021 for which the respondents 1 and 2 gave life threat to the petitioner. Further, the petitioner lodged a complaint dated 19.04.2021 against the respondents 1 and 2 before the Superintendent of Police, Ariyalur District and Inspector of Police, District Crime Branch, Ariyalur. Since, no action had been taken against the respondents, a private complaint was made by the petitioner before the Judicial Magistrate No.1 under Section 156(3) of Cr.P.C and the same was forwarded to the 3rd respondent and registered the case in Crime No.2 of 2021 for the offences under Section 294(b), 323, 417 and 420 of IPC. Thereafter, pending enquiry respondents 1 and 2 have approached the Principal District and Sessions Judge, Ariyalur for anticipatory bail on 17.08.2021 and the same was granted in CrI.M.P.No.2970 of 2021 against which the present petition is filed before this Court, to cancel the anticipatory bail granted by the Court below.

3. The learned counsel appearing for the petitioner submits that the sum of Rs.2,00,000/- was borrowed by the petitioner for urgent family expenses. Though the respondents 1 and 2 had lent the money after getting the registration of sale deed, however, the property was given as security and therefore there will not be any writings in the sale deed to the effect that it is offered as security. Taking advantage of the same, the respondents 1 and 2 produced the sale deed and obtained anticipatory bail without disclosing the factual aspects. He further submits that the respondents 1 and 2 are trying to escape from the clutches of law and obtained the anticipatory bail by way of furnishing false details and trying to take away the property of the petitioner. Hence, he prays to cancel the anticipatory bail granted in favour of 1st and 2nd respondent.

4. The Learned Government Advocate (Crl.Side) submits that the loan had been obtained by the petitioner for Rs.2,00,000/- and the land was registered as sale deed in the name of 2nd respondent dated 25.01.2021. Now, the property is worth more than Rs.20,00,000/-, which the 1st and 2nd respondents are trying to usurp. Hence, he vehemently opposed for cancellation of anticipatory bail to the petitioner.

5. The fact in the present case as projected is that the



petitioner had executed a sale deed in favour of 2nd respondent with condition that after 11 months the respondents would re-convey the property back to the petitioner upon receiving the loan amount of Rs.2,00,000/- with interest. But the respondents refused to execute re-conveyance deed in spite of receipt of the loan amount with interest.

6. A perusal of the materials available on record reveal that a sale deed has been registered in favour of respondents 1 and 2 upon receipt of certain amount by the petitioner. Though it is the contention of the petitioner that the sale was entered into only as a security for the loan obtained by the petitioner, however, there is no material to infer so, except for the contention of the petitioner. It is the stand of the petitioner that the sale is a conditional sale. If that be the case, the dispute between the petitioner and respondents 1 and 2 is appears to be civil in nature.

7. All the above aspects have been appreciated in proper perspective by the court below while granting anticipatory bail to respondents 1 and 2. In such a backdrop, the present petition seeking cancellation of bail is wholly misconceived and is a flawed attempt on the part of the petitioner to inject an element of criminality into a purely civil transaction and, therefore, the paryer as sought for by the petitioner cannot be acceded to.

8. For the reason aforesaid, the petition seeking to cancel the bail granted to respondents 1 and 2 cannot be sustained and, accordingly, the same is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The learned Principal District and Sessions Judge,
Ariyalur.
2. The Sub Inspector of Police,
District Crime Branch,
Ariyalur District.
3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.16692 of 2021

SMI (CO)
SB(17/11/2021)