



Crl.O.P. No. 4284 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2022

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P. No. 4284 of 2022

M.Velu,
S/o. A.S.Mani

... Petitioner

Versus

The State
rep. by the Inspector of Police,
Pallipalayam Police Station,
Namakkal Dt. - 638 006.

... Respondent

PRAYER : Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of arrest in F.I.R. No. 667 of 2021 dated 29.11.2021 on the file of respondent police, pending investigation on such terms and conditions.

For Petitioner	:	Mr.S.Nirmal Aditya
For Respondent in	:	Mr.R.Kishore Kumar, Govt. Advocate (Crl. Side)
For Intervenor	:	Mr. V.Vijaya Shankar



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ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 174 of Cr.P.C. and Sec. 420 I.P.C. in Crime No.667 of 2021 on the file of respondent police, seeks anticipatory bail.

2. The case of prosecution is that the defacto complainant's husband late Nachimuthu had obtained loans from the petitioner, for which, a power of attorney was given by him and his father in favour of petitioner for ancestral property to the extent of 3 acres and 12 cents. Thereafter, the petitioner had sold the land to the extent of 3 acres 12 cents to four other buyers without the knowledge of defacto complainant's husband. When this was questioned with him, he alleged to have demanded that an extent of 1 acre 70 cents at Padaivittu village to be transferred in his name and then he will return back 3 cents and 12 cents. Even though her husband transferred the same, the petitioner failed to return the lands to her husband, due to which, he has suffered with mental agony, and due to the mental stress, the defacto complainant's husband Nachimuthu died on 29.11.2021. Hence, the complaint.



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3. The learned counsel appearing for petitioner would submit that the entire transaction was made with prior approval authorising the petitioner as power agent and the defacto complainant's husband late Nachimuthu, who was in financial crisis approached him for hand loan in the year 2010. He would submit that her husband also executed a mortgage deed in favour of one Prakash and a power of attorney was executed by deceased Nachimuthu in favour of petitioner for the ancestral property of 3 acres 12 cents. Again, he has borrowed loan in the year 2014 and subsequently, in the year 2021, the said late Nachimuthu approached the petitioner to finalise all the debts. At his request, the petitioner arranged buyers for the said property and the said late Nachimuthu voluntarily along with his legal heirs has produced a life certificates in order to execute the sale of land to the extent of 2.06 acres and all the remaining amounts after adjusting towards loan were handed over to the said late Nachimuthu and the power of attorney executed for remaining land 1.19 acres stands cancelled out of 3 ares and 12 cents. Further, he has again approached the petitioner to sell another land of 1.70 $\frac{3}{4}$ acres of land, which is standing in the name of defacto complainant.



Accordingly, the petitioner decided to buy the property in his wife's name for Rs.9 lakhs and the consideration was paid on various dates to the defacto complainant. She also knew all the facts, but denying further payments made to her husband, the defacto complainant gave a false allegation against the petitioner and filed the present vexatious complaint. Now, the respondent police is attempting to target the petitioner based on presumptions and he apprehends that he is unfairly targeted by the respondent police. He would also submit that the petitioner is ready to cooperate with further investigation and he prayed to grant anticipatory bail to the petitioner.

4. The learned counsel appearing for Intervenor would submit that the petitioner is a leading financier and also lent loan for exorbitant rate of interest (kanthuvatti) without proper permission from the authorities. Accordingly, the husband of defacto complainant viz., Nachimuthu borrowed loan and out of force, he has executed a power of attorney in favour of petitioner. Even after payment of interest amount, the petitioner was not satisfied and out of coercion, he has obtained sale deed in favour of family members by utilising the power of attorney without paying any



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consideration and also for lesser value. He has also denied that the husband of defacto complainant gave a life certificate at the time of execution of document. He has also pointed out that the property, which was adjacent to the National Highways was under-valued and only for Rs.9 lakhs, he has obtained sale deed in the name of petitioner's wife from the defacto complainant's husband. While it was questioned by the defacto complainant family members, the petitioner had assured to transfer the property, but he refused to do so. After execution of documents, on seeing the conduct of petitioner, the defacto complainant's husband late Nachimuthu felt mental shock and due to that, he died. Hence, his wife gave a complaint and he, being an influenced person of the said locality, the police also not taken any action to arrest him and if he is released on anticipatory bail, he would threaten the family members of defacto complainant and he may tamper the evidence. He would further submit that the life certificate issued by the petitioner also not given by the Doctor and showing all these events, he prayed to dismiss this petition.



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5. Heard and considered the rival submissions made by Mr.S.Nirmal

Aditya, learned counsel for petitioner, Mr.R.Kishore Kumar, learned Government Advocate (Crl. Side) appearing for 1st respondent and Mr.V.Vijaya Shankar, learned counsel for Intervenor and perused the records.

6. On perusal of records, it reveals that originally, the case was registered in Pallipalyam Police Station in Crime No.667 of 2021 and not satisfied with the investigation done by the Inspector of Police, the defacto complainant had filed a petition in Crl.O.P. No.8148 of 2022 to transfer investigation from Pallipalayam Police Station to District Crime Branch and this Court by an order dated 21.04.2022 had transferred the investigation to District Crime Branch, Namakkal. During the pendency of earlier anticipatory bail petition, a status report was filed before this Court stating that during the investigation, the Investigating Officer found that the petitioner/accused Velu produced a life certificate issued by one Dr.Ganesan along with other documents before the Sub-Registrar, but during the investigation with the Doctor, he denied the signature found in



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the life certificate and stated that those life certificates were not issued by him. As per the complaint given by the wife of defacto complainant, originally, the case was registered under Sec.174 of Cr.P.C. and on seeing the conduct, the investigation officer altered the offence into Sec.420 I.P.C. and Sec.4 of Prohibition of Charging Exorbitant Interest Act, 120-B, 468, 471 and 420 I.P.C. and added Prakash, Vasantha, Murugesan, Palanisamy and Chandiran as accused on 27.06.2022.

7. On seeing the subsequent developments, as per the status report given by the Superintendent of Police, Namakkal District, the petitioner grabbed the lands belong to the deceased family by intentionally using the power of attorney and created documents in his family members name including his wife by giving forged life certificate of deceased family members as if it was given by one Dr.Ganesan and using it before the Sub-Registrar as genuine and registered sham and nominal sale deed in favour of his family members and also third parties. However, a Special team is also formed to arrest the accused. On seeing the facts and circumstances and subsequent developments of the case, and the learned Government



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Advocate submitted that if he is granted anticipatory bail, he may tamper the evidence and they may not be able to conduct custodial interrogation if required.

8. On considering the submissions of either side as regards subsequent developments and also on seeing the conduct of petitioner, he being a well-influenced financier of that locality may tamper the evidence, proper investigation may not be conducted by the investigating agency. Hence, in the interest of justice, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

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Index: Yes/No
Internet: Yes/No
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To

1. Inspector of Police,
Pallipalayam Police Station,
Namakkal Dt. - 638 006.

2. The Public Prosecutor,
High Court, Madras.

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T.V.THAMILSELVI, J.

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Pre-delivery order in
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