



Crl.O.P.No.15044 of 2022

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WEB CO **G.K.ILANTHIRAIYAN, J.**

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 465, 467, 468, 471 and 34 of IPC, in Crime No.101 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner/A3 is the wife of A2. The subject property was owned by the petitioner's father-in-law. After his demise, A2 on suppressing the defacto complainant, who is also one of the sons, obtained legal heir ship certificate. On the strength of the legal heir ship certificate, A1 who is the mother of A2 and the defacto complainant, settled her right in favour of A2. In turn, A2 sold out the entire property for a total consideration of 5.25 Crores and thereby cheated the defacto complainant. Hence, the complaint.

3. The learned counsel for the petitioner would submit that there are totally 4 accused in which the petitioner is arrayed as A3, who is the wife of A2. A1 is the mother of A2. He would further submit that the petitioner is an innocent person and she has been falsely implicated in this case. He



also submitted that the petitioner is ready and willing to pay her brother-in-law's share viz, to the defacto complainant, to the tune of Rs.2,29,68,750/- . Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned counsel for the Intervener would submit that the subject property was owned by the petitioner's father-in-law. After his demise, A2 on suppressing the defacto complainant, who is also one of the sons, obtained legal heir ship certificate. On the strength of the legal heir ship certificate, A1 settled her right in favour of A2. In turn, A2 sold out the entire property for a total consideration of 5.25 Crores. As far as the defacto complainant is concerned, after deducting 1/8th share from the total sale consideration, the defacto complainant is entitled for 50% of the share and it comes to the tune of Rs.2,29,68,750/- and also the accused persons cheated the defacto complainant without giving the above said amount. Hence, he vehemently opposed grant of anticipatory bail to the petitioner.

5. The learned Additional Public Prosecutor would submit that there are totally 4 accused in which the petitioner is arrayed as A3. A2



created a forged legal heir ship certificate by suppressing the defacto complainant and in turn A2 also sold the entire property to the tune of Rs.5.25 Crores. Hence, he vehemently opposed grant of anticipatory bail to the petitioner.

6. It is seen that this Court referred the matter before the Mediation for amicable settlement between the parties, since the dispute is between the brothers. However, before the Mediation Centre, no settlement has been arrived between the parties and referred back the matter to this Court. It is also seen that after selling the property, A2 purchased a property in the name of the petitioner herein from the sale proceeds. Now, the petitioner is ready and willing to pay her brother-in-law's share viz, to the defacto complainant, to the tune of Rs.2,29,68,750/-, within a period of six months. Already sufficient time was given to the petitioner for amicable settlement. Again, she sort for six months period to settle the amount. To that extent, she also filed an affidavit before this Court, which is extracted hereunder,

“ 1. I humbly state that based on the complaint dated 13.05.2022 given by the defacto complainant one S.Syed Asif Hussain, who is Power agent appointed by One Afsar Ali, a case in Crime No.101 of 2022 was registered



by the respondent Police for the offences under Sections 420, 465, 467, 468, 471 and 34 of IPC, as against the named accused persons. If further state that in the said case, I was arrayed as a 3rd accused.

2. I further state that with regard to the above case, I had preferred an anticipatory bail application in Crl.O.P.No.15044 of 2022 and the same is pending before this Hon'ble Court.

3. I further state that the specific overtact against me is that I had signed in the Sale Deed as a Witness and my husband who was working in Dubai, had sold the disputed property to One Harikrishnan for a sum of Rs.5,25,00,000/-.

4. I further state that out of the total sale consideration, a One-Eighth share was divided and gave a sum of Rs.65,62,500/- to my mother in law.

5. I further state that presently my husband had agreed to pay my brother in law's (one Afsar Ali) share a sum of Rs. 2,29,68,750/- from the balance amount of Rs.4,59,37,500/- to the defacto complainant, to the defacto complainant within a period of six months."

7. Considering the above fact and circumstances of the case, the custodial interrogation of the petitioner does not require in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner shall pay the defacto complainant's share to the tune of Rs.2,29,68,750/- by way of Demand



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Draft, within a period of four weeks from today, to the defacto complainant and on such payment, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Special Metropolitan Magistrate, Special Court for exclusively Land Grabbing Cases, Egmore, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall pay the defacto complainant's share to the tune of Rs.2,29,68,750/- by way of Demand Draft, within a period of four weeks from today to the defacto complainant. Failing which, the petition for anticipatory bail shall stand dismissed automatically and the respondent Police is directed to secure the petitioner and proceed in accordance with law.

[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



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for interrogation.

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[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

01.09.2022

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