



Crl.OP.No.22836 of 2022

A.D.JAGADISH CHANDIRA, J.

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120B, 465, 468, 471, 420 and 34 of IPC in Crime No.2 of 2022, seeks anticipatory bail.

2. The case of the prosecution is as under:-

(i) The petitioner/A1 had promoted housing lay out under the names of VGP Vinoth Town Part-I, II and IVA, the lands located in Vadagal-A, Vadagal-B, Painallur and Vallam-A villages in Sriperumbudur Taluk, Kanchipuram District. The Open Space Reservation lands (OSR lands) in the above layouts to the extent of 7,25,005 sq.ft were gifted by the VGP Housing Development Corporation to the Sriperumpudur Panchayat Union vide Document No.1746/1991 dated 2.5.1991. The very same lands were acquired by the Government of Tamil Nadu under the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997, in the year 2013 for promotion of Industrial Complex by SIPCOT.

(ii) Whiles, the petitioner, being the Managing Director of VGP Housing Development Corporation had cancelled the gift deeds in respect of OSR lands vide cancellation deed in Document No.706 of 2020 dated



18.07.2020 registered at Sub Registrar's Office, Pallipattu and thereafter the petitioner/A1 had sold the vacant lands measuring to an extent of 1,26,950 sq.ft in VGP Vinoth Town-I developed under LP/DTP.No.338/91 in Survey No.159/5B, 67,245sq.ft vacant land in VGP Vinoth Town-II developed under LP/DTP No.1273 of 1991 in Survey No.159/2 and 14,400 sq ft vacant land for the purpose of community hall in VGP Vinoth Town-IV developed under LP/DTPNo.95A and 95B/1999 in Survey No.140/2B vide document No.707/2020 dated 18.07.2020 registered at the Sub-Registrar Office, Pallipattu to various persons, who have, thereafter, claimed compensation from SIPCOT and thus cheated the Government by illegally receiving compensation for the above lands from SIPCOT and thereby caused loss to the Government Exchequer to the tune of Rs.21 crores. Hence, the case.

3. The crux of the submissions of Mr.N.R.Elango, learned Senior Counsel for the petitioner is as under:-

(i) The petitioner is the Real Estate Promoter, who had developed housing layouts named as VGP Vinoth Town Part I, II, IV and IV A in various survey Numbers in Sriperumpudur Taluk in Vadagal A, Vadagal B, Painallur and Vallam-A Villages. The plots were sold to different persons and the petitioner as a layout promoter had gifted the OSR area to the Local body.



However, the actual possession was not handed over and the development had not been done.

(ii) After the lay out schemes, there was a talk in the area that their lands were going to be acquired by the Government for Industrial purpose and thereby the housing scheme did not take off.

(iii) As per Section 50 of the Tamil Nadu Town and Country Planning Act, 1971 every permission for development of a layout granted under Section 49 shall remain only in force for a period of three years from the date of such permission and in the event of the layout housing scheme being dropped and actual possession being not taken and development not being carried by the local authorities, the land owners, who developed the layout are having legal as well as statutory rights over the property with regard to the gift deeds executed by them and thereby the ownership vests with them. In the case on hand, the lay out permission was granted on 2.5.1991 and thereafter, the layout scheme did not take off. Thereby, the petitioner, as promoter became the owner of the property. The lands were only intended as OSR Spaces under the housing layout scheme and when this scheme did not take off and actual possession was not taken and no developmental activity had been done, the petitioner's Company, as original owner, is vested with the



right.

(iv) Thereafter, the Government has taken steps to acquire the lands for industrial purpose for bringing the SIPCOT Industrial Estate in the same area and thereby necessary notifications were passed and ultimately the award came to be passed on 28.7.2020. However, even before the award was passed, the petitioner had cancelled the earlier gift deed on 18.7.2020 and later, the lands which were under the possession of the petitioner's Company were sold to various parties and the subsequent purchasers had purchased the properties at their own risk.

(v) The properties were purchased by the subsequent purchasers after the cancellation of the gift deed on 18.7.2020 and before the passing of Award and thereby the subsequent purchasers, as owners of the property, had claimed compensation.

(vi) When compensation was claimed by the subsequent purchasers, the District Collector concerned had sought for opinion from the then Additional Advocate General-I of Tamil Nadu, who, in turn, had given an opinion dated 7.8.2020 stating that if the layout/housing scheme did not take off within three years from the date of such permission, the scheme lapses and upon the cancellation of gift deed, the land owners are entitled to deal



with those lands in as much as they are original owners having a valid, clear and marketable title.

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(vii) Based upon the opinion obtained from the then Additional Advocate General, the Government/Land Acquisition Authority has also paid compensation to various subsequent purchasers, who had purchased the property from the petitioner after due verification. Later, during the audit, based on the complaint given by the Tahsildhar, the case has been registered.

(viii) The petitioner is not stranger to the property and he, being the owner of the property, had duly claimed his right. The petitioner, as promoter and original owner of the property, is entitled to protection in respect of the properties promoted by him, which were earlier earmarked for public purpose by virtue of gift deeds to the Local Body and the possession was also with the petitioner and since the layout scheme did not take off, they were, later, sold to subsequent purchasers after cancellation of gift deeds.

(ix) Pursuant to the gift deed, possession was not taken by the Local Body and absolutely, no developments were made by them.

(x) The loss alleged to have been caused to the Government, as claimed by the respondent, can only be the notional loss since no excess amount has been paid and the amounts have also been paid to the subsequent



purchasers only after obtaining due opinion from the then Advocate General and there is no element of cheating, fabrication of documents or impersonation.

(xi) So far as the only query raised by the respondent police is in respect of registration of the documents at a different SRO Offices is concerned, there is no prohibition in registering the cancellation document in another place and there is no question of impersonation also.

(xii) The case of the prosecution is borne out by documents and all the documents are also Government documents and there is no chance for the petitioner to interfere with the investigation or tamper with the documents.

(xiii) If the Authorities are aggrieved by the payment of compensation, they are entitled to file Civil Suit for recovery of the same.

(xiv) The petitioner was earlier arrested on 15.7.2022 in a similar case registered by Kancheepuram CBCID in Crime No.5 of 2021 for the offences punishable under Sections 465, 468, 471 and 420 and sent for remand, however, he was released on bail on 28.7.2022.

(xv) The respondent was well aware that the petitioner was in custody in Crime No.5 of 2021, between 15.7.2022 and 28.7.2022, however, they have not taken any steps to formally arrest the petitioner when he was very



much available in judicial custody and later, after his coming out on bail on 28.7.2022, the petitioner understands that the respondent is initiating steps to arrest the petitioner in the case on hand and thereby the petitioner has approached this court seeking anticipatory bail.

Pointing out the above aspects, the learned Senior Counsel for the petitioner prays for grant anticipatory bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Mr.R.Vinothraja, learned Government Advocate (Crl.Side) would submit that the petitioner, in order to cause wrongful loss to the Government, after issuance of the notifications for acquisition of the property in favour of SIPCOT, had entered into bogus transactions and thereby cancelled the gift deeds and subsequently sold the property to third parties. He would further submit that though the Registration Act prescribes that the registration has to be done within the particular SROs Office, the accused have done the registration in Pallipattu Office beyond the jurisdiction of Sriperumpudur and thereby they have cheated the Government by making a claim for compensation. He would also submit that though opinion has been obtained from the learned Additional Advocate General during the relevant point of



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time, the subsequent purchasers were not entitled for compensation whereas by conspiracy and collusion with other officials, they have received compensation which they are not legally entitled to and cheated the Government. He would further submit that though the petitioner was released in the similar case in Crime No.5 of 2021 on the file of the Kancheepuram CBCID, the petitioner had failed to comply with the conditions imposed thereunder and hence, cancellation of bail in the said case has been initiated. Hence, he would vehemently oppose to grant anticipatory bail to the petitioner.

6. Heard the submissions made by learned counsel for the parties and perused the materials available on record including the documents filed along with the petition.

7. The case of the prosecution is that the petitioner, who is a promoter of a housing scheme, having gifted the OSR property to the Local Body, has later cancelled the gift deeds unilaterally and sold the properties illegally to third parties and the subsequent purchasers, by colluding with the officials, have wrongfully claimed compensation from the Government and thereby caused huge monetary loss to the Government whereas, it is the case of the petitioner that the layout scheme did not take off and actual possession of the



land was not taken by the Local Body and no developmental activity was carried on by the Local Body. It is also the claim of the petitioner that when the gift deed had not been effected to and possession had not been taken, the ownership vests on the donors and that he had duly cancelled the gift deeds and subsequently, the purchasers have claimed compensation from the Government and the compensation amounts were paid to the claimants after obtaining due opinion from the then Additional Advocate General of Tamil Nadu. It is the further case of the petitioner that the entire case of the prosecution is borne out by documents and that he was earlier arrested in a connected case and that the respondents did not take any steps to formally arrest him in the case on hand and thereby anticipatory bail is sought for.

8. Taking into consideration the facts and the submissions made by the counsel, this Court is inclined to grant anticipatory bail with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the *learned Judicial Magistrate, Chengalpattu* on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five 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 deposit the original title deeds of immovable property either belonging to himself, relatives or friends worth about Rs.1 crore to the credit of Crime No.2 of 2022 before the concerned Magistrate, within a period of two weeks from the date on which the order copy is made ready.

[c] the petitioner shall report before the respondent police every day at 10.30 a.m until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[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



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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.

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Vv/ssk.



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