**Crl.O.P.No.30962 of 2022**

**M.NIRMAL KUMAR, J.**

The petitioner/A1 in Crime No.193 of 2002 for the offences under Sections 120(b) r/w. 34, 419, 465, 467, 468 and 471 IPC arrested by the respondent on 27.09.2022 filed this second bail application.

2.The petitioner's earlier bail application in Crl.O.P.No.26916 of 2022 was dismissed by this Court on 17.11.2022.

3.The contention of the learned counsel for the petitioner is that the petitioner purchased the property from the impersonator of the defacto complainant Saravanavel/A5 by a registered sale deed vide Document No.3950 of 2021 dated 23.04.2021 in the office of SRO, Neelangarai. According to the petitioner, he is an innocent purchaser, he has nothing to do with the alleged offence, he was falsely implicated in the case and he has got no bad antecedent. He would submit that the impersonator who is arrayed as A5 is yet to be secured. He further submitted that the petitioner was arrested on 27.09.2022, thereafter he is languishing in prison for more than 70 days and the respondent police had not sought for any custodial interrogation. The defacto complainant filed a civil suit against the petitioner and others in O.S.No.90 of 2022 on 23.03.2022 before the Additional District Munif Court, Alandur and six months thereafter lodged the present police complaint on 09.09.2022 after a considerable delay which is a motivated complaint. He further submitted that in this case A6 and A7 were arrested on 10.11.2022, they were taken under police custody for two days on 16.11.2022 and 17.11.2022 and thereafter A8 was arrested on 17.11.2022. From these accused, some documents were seized, the petitioner is only an employee in Miracle Civil Services, Thirumullaivoyal in which A6 is the Proprietor. The petitioner only acted as per the directions of his employer and he has got nothing to do in the above case. He further submitted that now the property is in possession of the defacto complainant and the case is primarily based on documentary evidence, all the documents were in possession of the Investigating Agency and some of the documents were recovered from the other accused. Further, A2 in this case was granted anticipatory bail by this Court in Crl.O.P.No.29126 of 2022 on 01.12.2022 wherein A2, the subsequent purchaser in whose name now the property stands given an undertaking to hand over the alleged fabricated document and other documents which is in his possession and recording the same, anticipatory bail was granted to A2. Further, the substantial portion of the investigation completed, further detention of the petitioner is not required and the petitioner also undertakes to cancel the alleged forged document which he had executed in favour of A2 in Document No.11229 of 2021. Hence, he prayed for bail.

4.The learned counsel for the intervener/defacto complainant objected for the petitioner's bail application and submitted that the petitioner is part of a larger group who all conspired in creating forged document, A6 is the employer of the petitioner, A7 a political person with muscle power with the aid of other accused created forged document, in this case not only the impersonator, the attesting witnesses are all impersonators who used the forged document, thereby created the forged sale deed using the same and also approached the planning authorities, obtained planning permission even before demolition order, the building in the property was razed. He would further submit that all the accused in a well orchestrated manner have committed the offence, attempted to encroach and take away the valuable property of 2400 sq.ft. in Palavakkam Village which property was settled by the defacto complainant's father Murugan. He further submitted that some more accused are yet to be arrested and if the petitioner is granted bail, investigation would be throttled. Hence, he strongly opposed this bail application.

5.The learned Public Prosecutor filed his counter and submitted that the property was in enjoyment of the defacto complainant's father Murugan who let out the house to his niece Vijayalakshmi on a monthly rental basis, since she failed to pay the monthly rent properly, the defacto complainant's father filed a civil suit in O.S.No.281 of 2016 and got a decree in his favour and filed Execution Petition to vacate her. The said Vijayalakshmi approached one M.Kandan, who is an habitual offender and a history sheeted rowdy in J4 Kotturpuram Police Station jurisdiction, entered into an unregistered lease deed for the property in favour of one Mr.V.Chandramohan and the said accused M.Kandan/A4 in order to grab the defacto complainant's property approached one Bharathi Kannan and

Ramesh Arumugam who were land brokers and they in turn approached Mahaganesh/A6, who is in construction business in the name of Miracle Civil Service and conspired to create forged document and the petitioner is the Manager of A6 who created a document as though he purchased the property using an impersonator, he obtained Power of Attorney vide Document No.1941/2021 on 02.02.2021 and thereafter taking advantage of the Covid Pandemic situation wherein there was restriction of movement and the defacto complainant failed to visit the property, the accused Kandan, Bharathi Kannan, Mahaganesh and Punniyakodi razed 550 sq.ft. building. Later the Power of Attorney was cancelled vide Document No.6106/2021 on 09.04.2021 and subsequently a sale deed has been created using an impersonator vide Document No.3950/2021 on 22.04.2021. Further, the investigation revealed that in the sale deed Document No.3950/2021 A1 had shown that he had made payment of Rs.31,24,500/- and Rs.35,00,000/- by way of Demand Drafts and projected as though Rs.66,24,500/- was paid to one Saravanavel, but the Demand Drafts were actually valued around Rs.3,124/- and Rs.3,500/-, in total Demand Drafts were taken only for Rs.6,624/-, on the other hand it had been projected as though Demand

Drafts were taken for a higher value. Further, the brother of A6 Vasanth was the person from whose account these forged Demand Drafts were obtained.

6.It is further submitted that the witness to the cancellation of Power of Attorney Document, namely, Abishek Joshua/A3 and Anitha/A4 were forged, in fact Abishek Joshua is staying in Canada and his sister Anitha is available here. The investigation further revealed that Kandan, Bharathi Kannan, Mahaganesh and Punniyakodi not only arranged impersonator, they also arranged fake identity proofs and other documents. It is also seen that A2, the subsequent purchaser created a mortgaged deed in favour of Union Bank of India and obtained Rs.95,01,000/-. It is further submitted that the bank transactions revealed that amounts were credited to the petitioner's account which were later diverted to the account of other accused, all the accused have conspired right from the initial stage in creating documents, projecting impersonator and thereby caused encumbrance as well as attempted to usrup the property of the defacto complainant which is a part of a large group, some more accused have to be apprehended, the fake documents have to be secured and seized. So far the statement of some of the witnesses including the defacto complainant's father, SROs and Bank Managers were recorded. Further A7 in this case filed a bail application before the learned Principal Sessions Judge, Chennai in C.M.P.No.24497 of 2022 and the same was dismissed on 16.12.2022. It is also to be seen that the wives of A6 and A7 have also looted and received the ill gotten money. The investigation is in crucial stage, the impersonator who signed the fake documents are to be identified and apprehended, call details of the arrested accused were analysed, documents to be sent for forensic study, the accused who were taken to police custody were tight lipped and at this stage, granting of bail would jeopardize the investigation.

7.Considering the submissions made and on perusal of the materials, this Court finds that the petitioner is part of a larger group who have taken active part in producing the impersonator and creating forged documents. One of the accused a known history sheeter, who was also Councilor for three terms with his muscle power, political connections was the backbone for the entire conspiracy, further with brute force and arrogance, scant respect to law razed the house of 550 sq.ft. This case cannot be treated as a normal case. In this case, all the accused actively conspired, connived and created forged document, arranged impersonator, thereby partially successful in creating encumbrance to the valuable property of the defacto complainant. The defacto complainant being a voiceless person is denied of his property. It is seen from the bank transactions, huge sums of money was paid by A2 who is projected as an innocent purchaser to A6 and A7 for no reason, such huge payments made, which causes serious doubt about the credentials of A2. It is also to be seen that in this case Power of Attorney vide Document No.1941/2021, cancellation of Power of Attorney vide Document No.6106/2021 and Sale deed vide Document No.3950/2021 all created using impersonator, Document No.11229/2021 was executed by A1 in favour of A2 on 25.11.2021 and on the same day, the deposit of title deed mortgage was created in favour of Union Bank of India in Document No.11230/2021, within five months thereafter, the mortgage deed got cancelled on 26.05.2022 vide Document No.6225/2022.

8.This Court is of the view that sustained investigation is required to apprehend the other accused, to unravel the well orchestrated crime.

Further, in this case Crores of money are involved, the financial root of the ill gotten money, to be verified. Further, this Court finds the statement and explanation given by the accused in response to notice under Section 41A Cr.P.C. needs further verification, in the event of any suppression of statement given pursuant to Section 41A Cr.P.C. notice and in obtaining anticipatory bail, appropriate action to be taken. Further, investigation is at a crucial stage. In view of the same, this Court is not inclined to entertain this petition. Accordingly, the Criminal Original Petition stands dismissed.

**20.12.2022**

*cse*

**M.NIRMAL KUMAR, J.**

*cse*

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**20.12.2022**