Crl.O.P.No.4655 of 2023

T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest at the hands of the respondent / Police for the offences punishable under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Sections 406, 420 and 34 of IPC, in Crime No.169 of 2022 on the file of the respondent / Police, seeks anticipatory bail.

2. The learned counsel for the petitioner submits that the petitioner's father Mohan Kumar / A1, who is a financier, from whom the de-facto complainant borrowed a loan for interest during the year 2008 for his business purpose and on subsequent dates also he continuously borrowed loans in order to improve his business and as he committed default, he agreed to sell his property. To that effect, he entered into sale agreement and one such agreement was executed in her name in the year 2008, but the same was cancelled in the year of 2015, by executing agreement for cancellation of agreement of sale, but suppressed from money transaction by herself and her father, now, the defacto

complainant has falsely raised allegations against that they claimed exorbirated rate of interest and also forcibly got sale deed from him with regard to his valuable properties and without receiving any sale consideration, thereby, her father was benefited by more than Rupees 10 crores. So, he lodged a complaint against the petitioner along with her father and harassed him by demanding further amount of Rs.5 crores and also with-holding the documents, and title deeds belongs to him and based on these allegations, the FIR was lodged under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and also under Sections 406, 420 and 34 of IPC. In fact, she is a home maker, and she is no way connected with the alleged transactions between the de-facto complainant and her father/A1. She was falsely implicated in this case and she is ready to abide any condition that may be imposed by this Court. He further submits that the respondent / Police have not sent any notice to the petitioner under Section 41-A Cr.P.C. Without issuing any notice, the said case was registered without following the guidlines issued by *the Hon'ble Supreme Court judgment in Petition for* ***"Special Leave to Appeal (CRl.) No.9449 of 2021, Dated***

16.12.20214, Md.Shamim Khan Vs. The State of Jharkhand". Hence, the petitioner prayed for grant of anticipatory bail.

3. The case of the prosecution is that the de-facto complainant borrowed a loan from A1 / father of the petitioner in the year 2008, and as a security, he (A1) obtained blank cheques, promissory note, stamp papers and he also forcibly obtained agreement of sale from his wife, with regard to 3 grounds of property situated at Chrompet. Subsequently, in the year 2009, he borrowed additional loan and as a security, he executed agreement of sale with an extent of 14 acres at Vishnupakkam Village in favour of the petitioner. Thereafter, A1 promised him to sell the Chrompet property, in order to sell the total liability, one Venkateswara Rao was ready to purchase the property, but at the instigation of A1, he introduced one buyer K.M.Ponnappan a Timber Merchant, and the sale deed was executed in the name of K.M.Ponnappan, S/o.Peres Francklin, without receiving any sale consideration. Even though, he was not satisfied, he insisted further payment and so, he was forced to sell the common property in his native

place, in which the agreement stands in the name of the petitioner. After collecting the principal amount with exorbitant rate of interest, A1 refused to receive the documents which were in his custody and also forcibly obtained his property by setting up a buyers for lesser value, thereby committed breach of trust and this petitioner also colluded with her father and fraudulently obtained sale deed and cheated with common intention and so, the FIR was lodged under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Section 406, 420 and 34 of IPC. Therefore, the prosecution raised objection.

4. The learned counsel for the intervenor submitted that the de-facto-complainant also raised objection stating that she along with her father, forcibly obtained sale deeds from him on force to sell multiple properties for lesser value and also with-holding the original documents, promissory notes and unfilled stamp papers. So, a complaint was given against them. After lodging the FIR, a complaint was given immediately, and the father of the petitioner moved for anticipatory bail in Crl.O.P.No.18584 of 2022, in which this Court on 05.08.2022 directed

the respondent / Police to conduct enquiry and parties were also directed to co-operate for the enquiry along with other conditions. But inspite of the direction given by this Court, the petitioner as well as the father of the petitioner failed to appear before the respondent / Police, even though the de-facto complainant was present. So, the conduct of the parties reveals that they are not inclined to co-operate for the investigation. Hence, he raised strong objection to grant anticipatory bail to the petitioner.

5.Considering both sides' submissions, this is the second application filed by the petitioner. Admittedly, she is the daughter of A1, and against A1 and A2, the de-facto complainant alleged that he had borrowed a loan from A1, who is a money lender, but he forcibly obtained sale deeds from him with regard to his multiple properties without receiving any sale consideration. He was forced to execute the sale deed even after settlement of due, and the document is still withheld by him and so the dispute arose between the parties. As the respondent / Police found prima - facie material, they lodged FIR under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Sections 406, 420 and 34 of IPC. Before lodging the FIR, this Court already directed the respondent / Police to conduct enquiry in Crl.O.P.No.18584 of 2022, with a direction to co-operate for the investigation by both the parties.

6. As per the instructions of the learned counsel for the Intervenor, de-facto complainant was present for enquiry. But A1 and the petitioner did not turn up. So, the conduct of the parties, reveals that they are not co-operating for the investigation.

7. Admittedly, many of the properties of the de-facto complainant were sold and one such properties' sale agreement also stands in the name of the petitioner. The main allegation is that, without receiving any sale consideration, he was forced to sell the property. So, it needs detailed investigation, inspite of the direction given by this Court. A1 and A2 are not co-operating for investigation, and therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

07.07.2023

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T.V.THAMILSELVI, J.

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