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Crl.O.P.No.5358 of 2023

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Reserved On	04.09.2023
Pronounced On	14.09.2023

RMT.TEEKAA RAMAN, J.

The petitioners/A1 to A4, who apprehend arrest at the hands of the respondent police for the alleged offences under **Sections 406 and 420 of IPC in Crime No.48 of 2022** on the file of the respondent police, seek anticipatory bail.

2. 1st petitioner is the wife of the 2nd petitioner. 3rd and 4th petitioners are the sons of the 1st and 2nd petitioner. A case in crime No.48 of 2022 was registered against the petitioners herein for fabrication of the documents and for creating fabricated power of attorney.

3. The learned counsel appearing for the petitioners would contend that there is no averment against the alleged role played by the the 3rd and 4th petitioner, who are the sons of the petitioner 1 & 2. He further submitted that one Prakash, real estate broker has shown



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some property for construction and the 2nd petitioner has paid some advance to the said Prakash. But the said Prakash, showing the impugned property has informed that one Sukumar is the power agent in respect of the vacant land in S.No.30/2 and 30/4 to an extent of 2440 Sq.Ft in Puthukaram Village, Madhavaram Taluk and accordingly, they have obtained the general power of attorney and as there is some discrepancy in the patta no, rectification deed was prepared on 22.10.2020, wherein he had attested the Rectification Deed. Thereafter, the sale deed was executed in the name of the wife of the 2nd petitioner Viz., Tamil Selvi/1st petitioner herein. Thereafter, the said Tamil Selvi sold the property with the house to the *de-facto* complainant herein for a sum of Rs.1,23,50,000/-.

4. The original owner of the property is one Hemalatha Kothamachu. On verification of the encumbrance certificate, she has found that some persons have created a fake general power of attorney in the name of one Sukumar, as if she has given power of attorney to the said Sukumar and subsequently, made another



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Rectification Deed for general power of attorney, which is not maintainable and with the rectified General Power of Attorney, the said Sukumar has executed the sale deed in favour of Tamil Selvi/1st petitioner herein and on construction of the house, she has sold the property, both the land and the building to the present *de-facto* complainant. The complaint given by the original owner by name Hemalatha Kothamachu was registered in Crime No.96 of 2021 by the Central Crime Branch -II, Chennai for the alleged offence under Sections 419, 420, 465, 467, 468, 471, 120B, 34 and 109 of IPC, wherein the 1st and 2nd petitioners are shown as accused. It appears that, they have moved the anticipatory bail petition in Crime No.96 of 2021 and this court appears to have granted the relief of anticipatory bail on deposit of Rs.15,00,000/- to the credit of the crime No.

5. Subsequently, the District Registrar, based upon the complaint given by the original owner Hemalatha Kothamachu has issued a notice, whereby he cancelled the general power of attorney



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as well as the alleged rectification deed in favour of the said Sukumar and the sale deed in favour of the Tamil Selvi. On coming to know about the same, the present *de-facto* complainant has lodged the present complaint in Crime No.48 of 2022 before the Inspector of Police, Avadi City Central Crime Branch and the same has been taken on file for the offence under Sections 406 & 420 IPC.

6. The learned counsel for the petitioners would contend that since they have already deposited Rs.15,00,000/- and the 2nd petitioner has only attested the rectification deed, he seeks anticipatory bail for the petitioners.

7. Heard the learned counsel appearing for the intervenor.

8. After perusing the rectification deed, the purpose for which the said rectification deed came into existence as per the recital is that the signature of the original owner Hemalatha Kothamachu was not proper. The said rectification deed was



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attested by none other than, A2/2nd petitioner and subsequently, Tamil Selvi/1st petitioner has obtained the sale deed, who is none other than the wife of the A2/2nd petitioner herein and they have sold the property to the *de-facto* complainant and hence, I find that it is a two different things, which is to be gone into.

9. When this court put forth to the learned counsel for the petitioners as to whether he got any instructions from the petitioners regarding deposit of any amount, since by virtue of the sale deed executed by A1 & A2, wherein the *de-facto* complainant has paid Rs.1,23,50,000/- and as the sale deed in favour of the Tamil Selvi is now found to be bogus and fraudulent and he had paid Rs.70,00,000/- once again to the original owner by name Hemalatha Kothamachu, however, the learned counsel for the petitioners would state that Rs.15,00,000/- paid in earlier anticipatory bail in connection with the Crime No.96 of 2021 on the complaint given by Hemalatha Kothamachu would be sufficient.



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10. Taking into consideration the role played by the 2nd petitioner herein in attesting the rectification deed without showing the original owner to camouflage the earlier general power of attorney and he had registered this document in his wife's name and subsequently constructed a house by entering into an agreement of sale with the present *de-facto* complainant and taken an amount of Rs.1,23,50,000/-.

11. This Court has already granted anticipatory bail to the petitioners 1 & 2 in connection with Crime No.96 of 2021 at the incident of Hemalatha Kothamachu wherein they have already deposited Rs.15 lakhs and the present crime number is at the incident of subsequent purchase against A.1 & A.2. Admittedly, A.1 herein has attested the rectification General Power of Attorney and on the strength of General Power of Attorney, A.2 has purchased the property and made developments and sold to the defacto complainant. Since already anticipatory bail has been granted in respect of one part of the transition, I am inclined to grant anticipatory bail for all the petitioners.



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12 Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before **the learned Judicial Magistrate No.I, Poonamallee**, on condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners 1 & 2 shall deposit Rs.5,00,000/- each at the time of execution of bond;

[b] 3rd and 4th petitioners 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] all the petitioners shall report before the respondent police weekly twice at 10.30 a.m., for six weeks;



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[c] all the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] all the petitioners shall not abscond either during investigation or trial.

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

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

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mpl/rgr

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