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CrI.O.P.No.7692 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.7692 of 2023

Palavesam

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Selaiyur Police Station,
Chennai.
(Transferred to Central Crime Branch,
Tambaram)

(Crime No.114 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.114 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.K.Balaji

For Respondent : Mr.C.E.Pradap
Government Advocate (CrI.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 27.02.2023 for the offences punishable under Sections 406, 420, 465, 506(ii) & 120(B) r/w 34 of IPC, in Crime No.114 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is the owner of the subject property admeasuring to an extend of 880 sq ft, had obtained loan from the City Union Bank and thereafter, he failed to repay the same, hence, the Bank Officials initiated proceedings under SARFEASI Act for auction. The said property was purchased by the defacto complainant through auction and after purchasing of the property, he came to know that the property does not have patta in the name of the owner of the property. The further allegation is that the defacto complainant came to know that only 550 sq ft of land only is available in Survey No.25/1A, in which, he had obtained sale certificate and remaining 330 sq.ft is in another Survey No.26/1. Thereafter, the defacto complainant had asked the bank officials to rectify the measurement of 880 sq.ft as per the document, but it is alleged that the defacto complainant was threatened, thereby alleging that the



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petitioner along with other accused colluded with each other and cheated him by a forged document, the complaint was given.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and the defacto complainant has lodged a complaint against the Right Choice SP Promoters, City Union Bank officials and the petitioner. He further submitted that the petitioner has purchased the said property from Right Choice SP Promoters by a registered Sale Deed in the year 2015 and the loan has been obtained by one Nainar, who is the friend of the petitioner, from City Union Bank. He further submitted that the petitioner has stood as security by giving his property under mortgage and he has also given the patta, which was given by the previous owner of the property. He further submitted that since the said Nainar did not repay the amount to City Union Bank, the petitioner also could not pay the loan amount and hence, the auction proceedings were initiated and only during such time, the petitioner came to know that the said patta has been issued without mentioning the Survey Number. He further submitted that the petitioner cannot be faulted and if at all, the Right Choice SP Promoters, who sold the property to the petitioner, can only be faulted. He further submitted that a



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case of civil nature has been falsely projected as a case of criminal offence.

He also submitted that the petitioner is in judicial custody from 27.02.2023 for the past more than a month and he is ready to co-operate with the respondent for execution of any rectification deeds. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (crl.side) appearing for the respondent police submitted that the petitioner along with other accused had obtained loan from City Union Bank and subsequently, they have not repaid the same, during verification, it was found that they have given a fabricated patta. He further submitted that this Court, while granting interim anticipatory bail to the co-accused in this case on the assurance given by them that they are ready to effect rectification deed. However, he would oppose for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.



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6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions. 7.

Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Tambaram**, and on further conditions that:

[a] 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 report before the respondent Police everyday at 10.30 a.m., for a period of one week and thereafter, as and when required for interrogation; the petitioner shall co-operate with the respondent and the defacto complainant for carrying out rectification in the revenue records and other necessary documents.

[c] the petitioner shall not abscond either during investigation or trial;



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[d] the petitioner shall not tamper with evidence or witness 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 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]***;

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

06.04.2023

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To

1. The Judicial Magistrate No.I,
Tambaram.
- 2.The Inspector of Police,
Selaiyur Police Station,
Chennai.
- 3.The Inspector of Police,
Central Crime Branch,
Tambaram
4. The Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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