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Crl.O.P.Nos.12438 and 12635 of 2023

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Crl.O.P.Nos.8087 and 12635 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 467, 471 and 474 of IPC in Crime No.05 of 2023, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant Sivakumar is that he along with his father had given power of attorney to one Senthilkumar/A2/petitioner in Crl.O.P.No.12438 of 2023 in respect of his property measuring 2½ acres in R.S.No.1157/1C in Ponnivadi Village on 04.05.2011. Subsequently, his father passed away on 26.10.2015, whereas the accused by suppressing the fact that the father of the defacto complainant died, had by impersonation, obtained a life certificate of the deceased/father of the defacto complainant from a doctor/petitioner in Crl.O.P.No.12635 of 2023 on 07.02.2023 and based on which, on 13.02.2023, executed a sale deed in favour of one Sun Balu @ Balasubramaniam in Document No.1495 of 2023. Hence, the case.



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3. Mr.M.Guruprasad, learned counsel appearing for the petitioner in Crl.O.P.No.12438 of 2023 submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would submit that the petitioner is a promoter and developer who is engaged in the business finding properties for companies which is best suitable for agriculture and installation of Wind Mills and that he had obtained powers from the defacto complainant and his father on 04.05.2011, coupled with interest and possession and during such time, he had also paid a sum of Rs.10,50,000/-. While being so, the agency could not utilize the said property for the purpose of installing Wind Mills. Hence, the petitioner being the power holder, had approached the defacto complainant and requested him to produce his life certificates as well as his father. Subsequently, on 07.02.2023, the defacto complainant had asked the petitioner to collect the life certificate of himself and his father and on the strength of his words, the petitioner received the same and on 13.02.2023, being the power holder, the petitioner had executed a sale deed in favour of one Balasubramani vide



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registered Document No.2036 of 2023. Later, when they had gone to that place, they were informed that the owner of the property/father of the defacto complainant died as early as 26.10.2015 and on coming to know about the same, immediately they had gone to the same registrar office and cancelled the sale deed on 24.02.2023 vide Document No.2036 of 2023 and they had also intimated the same to the defacto complainant. However, in order escape from returning of amount of Rs.10,50,000/- paid by the petitioner and to extract more money, the defacto complainant has given a false complaint against the petitioner. He would further submit that even as per prosecution, the entire case is borne out documents and therefore, the custodial interrogation of the petitioner may not be required. Earlier, the respondent police had issued a notice to the petitioner under Section 41 A Cr.P.C. and the petitioner had also duly appeared before the respondent police for the purpose of enquiry and he had not evaded the notice. Thereby, he would seek for anticipatory bail to the petitioner.



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4. Mr.Mohamed Riyaz, the learned counsel for the petitioner in Crl.O.P.No.12635 of 2023 would submit that the petitioner namely Thirumalaisami is a practising Doctor. Earlier, he was working as a Government Doctor and after retirement, he is practising privately. One Sivakumar (defacto complainant) had approached the petitioner claiming to be the son of one Somasundaram and the petitioner had issued life certificates to them. Other than that the petitioner is not aware of what had happened and that the petitioner is not a beneficiary in the transaction. The respondent police had issued notice to the petitioner under Section 41A Cr.P.C. and the petitioner had also appeared before the respondent police for enquiry. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner in Crl.O.P.No.12438 of 2023 is arrayed as A2. The allegation against him is that he had earlier obtained power of attorney from the defacto complainant and his father and subsequent to the death of the father of the defacto complainant, he



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had by impersonation, obtained life certificate of the father of the defacto complainant and based on which, he had executed a sale deed in favour of one Sun Balu @ Balasubramaniam. However, he would submit that the case was registered on 20.05.2023 and even before the registration of the case, the alleged sale deed dated 13.02.2023, had been cancelled by the accused vide Document No.2036 of 2023 dated 24.02.2023. Insofar as the petitioner in Crl.O.P.No.12635 of 2023 is concerned, he is doctor by profession and he is the one who had issued the life certificate of the deceased/father of the defacto complainant. He further submitted that the notice under Section 41 A Cr.P.C. was issued to both the petitioners and they both appeared before the respondent police for enquiry and that the custodial interrogation of the petitioners may not be required for investigation since the entire case of the prosecution is borne out by documents.

6. Mr.N.Ponraj, learned counsel for the Intervenor would vehemently opposed for grant of anticipatory bail to the petitioners stating that the defacto complainant and his father had given power of



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attorney to one Senthilkumar/A2/petitioner in Crl.O.P.No.12438 of 2023 in the year 2011 and subsequent to the death of his father, the said Senthilkumar/A2 by impersonating the father of the defacto complainant, had obtained life certificate and based on which, he sold the property to one Sun Balu @ Balasubramaniam vide Document No.1495 of 2023 dated 13.02.2023. Though the said Senthilkumar/A2 now claims that the said sale deed has been cancelled, he is a land grabber against whom, several cases are there and that the investigation has not been done in a proper manner.

7. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl. Side) for the respondent police and the learned counsel for the Intervenor and perused the materials available on record including the FIR.

8. It is seen that the petitioner in Crl.O.P.No.12438 of 2023 has paid a sum of Rs.10,50,000/- to the defacto complainant on 04.05.2011 and that the sale deed alleged to have been executed by him, has also



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been cancelled. It is stated by the prosecution that the entire case is borne out by documents and thereby, the custodial interrogation of the petitioners may not be required. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side, the this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. 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.II, Tiruppur**, on condition that the petitioners shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten 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:



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[a] the 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] the petitioners shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Saturday at 10.30 a.m. until further orders.

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

[d] 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].



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

Accordingly, the Criminal Original Petitions are ordered.
Consequently, connected Miscellaneous Petitions are closed.

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