



Crl.O.P.No.30286 of 2022

Crl.O.P.No.30286 of 2022

WEB C **T.V.THAMILSELVI, J.**

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 465, 467, 468, 471 and 474 of IPC, in Crime No.28 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused have indulged in cheating the defacto complainant by furnishing false life certificate of her deceased mother namely, Mrs.C.Palayam and executing sale deed to the prospective buyers with respect of the deceased's self-acquired property comprising in Survey No.153/2 at Ozhalur Village, Chengalpattu District measuring an extent of 88 cents. It is further alleged that the accused persons have not compensated her for the sale of above lands. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He submitted that he has not manipulated any documents as alleged in the FIR.



Crl.O.P.No.30286 of 2022

The petitioner is a builder and he entered into the contract for valid consideration and the amount was already settled in favour of the parents of the defacto complainant. He further submitted that the defacto complainant has preferred this present petition just to give a criminal colour to her civil dispute. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4. The learned counsel for the Intervenor raised strong objection stating that this petitioner having entered into Power of Attorney with regard to the property, has not paid the consideration as per the terms of agreement but he sold the property for higher value besides by obtaining a fake legal heir certificate and sold the property to third party. Hence, he opposed to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner along with other accused have indulged in cheating the defacto complainant by furnishing false life certificate of her deceased mother namely Mrs.C.Palayam and executing sale deed to the prospective buyers with respect of the deceased's self-acquired property comprising the Survey No.153/2 at Ozhalur Village, Chengalpattu District



Crl.O.P.No.30286 of 2022

measuring an extent of 88 cents. He further stated that the accused persons have not compensated her for the sale of above lands.

6. When the matter came up for hearing on 23.01.2023, this Court referred this matter for Mediation. Accordingly, the petitioner is inclined to settle the issue by paying a sum of Rs.25,00,000/- to the defacto complainant. But she is not inclined to receive the said amount for the reason stated by her that her share of the property is valued more than Rs.1 Crore and same has to be paid by this petitioner. However, without considering the real value of the property, the petitioner is inclined to settle the issue for lesser amount. Hence, the defacto complainant is not inclined to agree the settlement.

7. However, he learned counsel for the petitioner submitted that already he paid the entire amount to the parents of the defacto complainant. But all those things can be decided only at the time of trial not in the investigation stage. However, the petitioner is now inclined to deposit a sum of Rs.25,00,000/- to the credit of Crime No.28 of 2022 as agreed before the Mediation without prejudice his claim. Though the same was not accepted by the defacto complainant, since the transaction was started from the year of 2006



onwards, there is no possibility of tampering the evidence now.

WEB COPY

8. Taking into consideration the facts and submissions made by the learned counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Chengalpattu**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties (out of which one surety must be a blood related surety) 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 and on further condition that:

[a] the petitioner 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 petitioner shall report before the respondent



CrI.O.P.No.30286 of 2022

police every Tuesday and Saturday at 10.30 a.m., for a period of four months and thereafter as and when required for interrogation.

[c] the petitioner is directed to pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) without prejudice to his rights to the credit of Crime No.28 of 2022 within a period of four weeks from the date of receipt of copy of this order before the concerned Magistrate and on such deposit the defacto complainant is permitted to withdraw the above said amount by filing an undertaking affidavit.

[d]the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e]the petitioner shall not abscond either during investigation or trial.

[f] 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].

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

gbi

09.02.2023



WEB COPY



CrI.O.P.No.30286 of 2022

T.V.THAMILSELVI, J.

gbi

CrI.O.P.No.30286 of 2022

09.02.2023