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Crl.O.P.(MD)No.20464 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 07/12/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD)No.20464 of 2023

K.Chandrasekar : Petitioner/A2

Vs.

The State of Tamil Nadu
rep. by The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.

(In Crime No.250 of 2023) : Respondent/Complainant

For Petitioner : Mr.K.P.S.Palanivelrajan
for M/s.KPS Law Associates

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

For Intervenor : Mr.C.Mahadevan

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of
Cr.P.C.

PRAYER:-For Anticipatory Bail in Crime No.250 of
2023 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioner, who is arrayed as A2 apprehends
arrest at the hands of the respondent police for the
offences punishable under sections 120-B, 419, 420, 468,



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471 and 196 IPC, in Crime No.250 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint under section 156(3) Cr.P.C before the Judicial Magistrate No.II, Kodaikanal stating that one Lizamma Urmese purchased the property in 1968. On 22/06/1972, she sold the same in favour of one Chandrasekaran and Shankar. Later Shankar entered into a sale agreement with Lizamma Urmese. The sale agreement was existing, dispute arose between the above said Lizamma Urmese and Chandrasekaran, over which, a suit in O.S No.373 of 1992 was pending on the file of the Sub Court, Dindigul. Similarly, Shankar filed a suit in O.S No.438 of 1992 and a common judgment was passed, on 27/08/1996. Shankar died, on 26/03/2012 leaving behind his wife. The accused persons in order to grab the property made a false publication stating that the document No.470 of 1972 was missing. A complaint was given in Kodaikanal Police Station. The above said publication was made by one Sudhakar. By taking advantage of the similarity of the name Shankar, executed a sale deed in favour of Santhi, on 06/01/2012 in document No.470 of 1972. The father of Santhi's name was mentioned as Shankar. But in the sale deed, the father name is



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mentioned as 'Chandrasekaran'. Address also differs. Not only the Document Writers, but also the witnesses have indulged in conspiracy. Similarly, the above said Sudhakar is also colluding with other accused for the purpose of committing the above said forgery. Similarly, the father name of Chandrasekaran is also wrongly mentioned. The above said Chandrasekaran also executed a sale deed in favour of his wife, on 23/06/1972. The occupant of the property namely Vignesh filed a complaint before the Kodaikanal Police Station in Crime No.336 of 2012. That was referred as 'Mistake of fact'. Since, it was found that during the course of enquiry, Chandrasekaran was died at the age of 14, O.S No.1378 of 2013 was filed by Shankar taking advantage of the similarity of the name. So also obtained ex-parte decree. The above said impersonation was also known to the above said Advocate namely Sudhakar and Mohammed Mydeen. By impersonating and by creating false documents, decree has also obtained. Seeking action against the accused persons, all those persons the above said complaint has been filed.

3.From the facts narrated above, by taking advantage of the similarity of the name, the above said document appears to have been created. Originally, the property



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belongs to one Chandrasekaran and Shankar. Later the above said Chandrasekaran and Shankar executed a sale agreement in favour of Lizamma Urmese. Lizamma Urmese filed a suit in O.S No.19 of 1988 before the Sub Court, Dindigul. Similarly, Shankar also filed a suit in O.S No.206 of 1989 before the very same Court seeking partition of his half share in the above said joint purchase of 97.5 cents. A common order was pronounced, by which, the suit for specific performance namely O.S No.373 of 1992 filed by Lizamma Urmese was transferred to the Sub Court, Dindigul, but O.S No.429 of 1992 was allowed. So, Lizamma Urmese filed appeal in AS No.229 of 1997 and transferred AS No.1132 of 2002 before the Principal Seat. In the above said proceedings, Chandrasekaran remained *ex-parte*. In the meantime, Shankar died. Then the legal-heirs of Shankar preferred appeal before the Hon'ble Supreme Court in Appeal No.7819/2013 and the matter was referred to Mediation and settlement was arrived, by which, Lizamma Urmese agreed to settle 13.5 cents in favour of Shankar. So, the Principal Jayanthi and Lizamma Urmese are in joint possession of the property. In the meantime, Shankar and Chandrasekaran knowing the internal dispute between the Lizamma Urmese and Late husband of the Principal, hatched conspiracy to grab the property by using the sameness of



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the name in document No.470 of 1972. In pursuance of the above said conspiracy, they preferred a complaint stating that the document No.470 of 1972 is missing.

4.On that basis, non-traceable certificate was obtained. Paper publication was issued through an Advocate Sudhakar. On the strength of the above said certificate with the connivance of the other parties, Shankar executed a settlement deed in favour of A1, on 06/10/2012. Similarly, A2 namely Chandrasekaran also executed another settlement deed for the remaining portion of the property in favour of Santhi, on 01/04/2013. The above said fraud is evident on perusal of the above said document, dated 22/06/1972. Because on the above said date, A1 was only six years old and A2 was 14 years. There was no relationship between A1 and A2 at that time. This is the history of the above said issue as narrated by the intervenor.

5.Heard both sides,

6.While hearing Crl.OP(MD)No.15611 of 2023, the learned Senior counsel who was appearing for the petitioner has fairly admitted that materials are available against the petitioner. On that account, he not-pressed that application. After not-pressing



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Crl.OP(MD)No.15611 of 2023, this petition has been filed.

This court told the learned Senior counsel now appearing for the petitioner that it may not be proper on the part of this petitioner to take a different stand by changing the counsel in the light of the above said submission made at the time hearing Crl.OP(MD)No.15611 of 2023.

7.For which, the learned Senior Counsel now appearing for the petitioner would submit that the Coordinate Bench of this court has considered the anticipatory bail application in Crl.OP(MD)No.20050 of 2023 and granted anticipatory bail, on 22/11/2023 with certain conditions. He would further submit that no notice under section 41(A) Cr.P.C was served upon the petitioner. He is also ready to cooperate with the Investigating Officer.

8.Now the question, which arises for consideration is whether it may be a proper course for this court to adopt in dismissing this petition in the light of the grant of the anticipatory bail in the connected matter viz., Crl.OP(MD)No.20050 of 2023, dated 22/11/2023 by the Coordinate bench of this court.



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9.It is seen that FIR in Crime No.276 of 2023 differently registered in respect of single cause of action with regard to the separate extent, a portion for the very same survey number, so, I am of the considered view that it may not be proper on the part of this court to adopt such a course by dismissing this petition.

10.In view of the order passed by the Coordinate Bench of this court in Crl.OP(MD)No.20050 of 2023, dated 22/11/2023, this petition is liable to allowed.

11.In the result, this criminal original petition is allowed with certain conditions. Accordingly, **the petitioner/A2** is released on bail in the event of arrest or on his appearance before the learned **Judicial Magistrate No.II, Kodaikanal** and on his executing a 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 learned Judicial Magistrate concerned and on further condition that the petitioner/A2 shall appear before the respondent police daily at 10.30 am until further orders. The petitioner/A2 shall comply with the condition stipulated under [Section 438 Cr.P.C.](#) scrupulously. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the



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order is made ready, failing which, the petition for anticipatory bail will stand dismissed.

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Index:Yes/No
Internet:Yes/No
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Note:Issue order copy on 08/12/2023

To,

- 1.The Judicial Magistrate No.II,
Kodaikanal,
Dindigul District.
- 2.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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