



Crl.O.P.Nos.1517 and 4276 of 2024

and Crl.M.P.No.1760 of 2024

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C.V.KARTHIKEYAN,J.

The petitioner/A1 has filed Crl.Op.No.1517 of 2024 and the petitioner/A2 has filed Crl.Op.No.4276 of 2024, in Cr.No.31 of 2023, registered by the respondent police for the offences punishable under Sections 406, 409, 420 read with Section 34 and 506(i) of IPC. They seek anticipatory bail.

2. The earlier anticipatory bail petition of A1 was dismissed, during the Christmas vacation, by a learned Single Judge. This Court had dismissed the anticipatory bail application of A2 vide order dated 30.01.2024 and observed as follows:

"2. It is stated that the complaint had been lodged on 11.05.2023 and FIR had been registered on 20.11.2023.

3. The learned Senior Counsel on behalf of the petitioner stated that the petitioner/A2 is currently Panchayat President of Oonamancheri Village, Vandalur Taluk, Chengelpattu District and therefore claims that the petitioner holds a very elevated position and therefore, there cannot be



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allegation of any criminal act as against the said petitioner. But unfortunately, he is before this Court only as an accused and not as President of any Panchayat. It is stated that A1 who is a brother of this petitioner and A3 who is a close relative of this petitioner have a direct interest in a company called S.M.Groups. These two petitioners are running that particular company and the third accused is the Chief Executive Officer of that particular company. It may not be a company in the sense of being registered under the Companies Act, but to the common people in that particular area, it had been projected as run by responsible persons including the petitioner who holds the laudable position as President of the Panchayat.

4. It is also stated that the accused persons including this petitioner had invited the villagers in that particular area, whom the learned Senior Counsel termed as "these people", to a project had been started in the name "Amaze Nandavanam" at Indalur Village, Sithamur Union, Acharapakkam, Chengalpattu District. It is a scheme which had been formed by the accused person.

5. The learned Senior Counsel for the petitioner stated that it was the third accused who was responsible for the entire scheme. But, the underlying presence of this petitioner as



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Panchayat President was always there. This petitioner had held out that in view of his position as President Panchayat the villagers can invest in that particular scheme. The investment was to deposit amounts with promise to pay interest and an agreement had also been entered into which is termed as a sale-cum-rental agreement without description of the property. The villagers did not get any sale of lands. They did not get any land on rental basis or on lease basis. They have handed over their money to be invested. It is also claimed that the first accused had returned back a sum Rs.6.75 lakhs out of the sum of Rs.9/- lakhs and that this petitioner would always ready to return back the balance amount of Rs.2.25 lakhs. It is to be noted that it is not the quantum which is important but the intention to cheat an ordinary person out of his valuable money which forms essence of the offence of cheating.

6. There is one further aspect which has to be stated even before proceeding further with the facts of the case. That is the claim by the learned Senior Counsel that Notice under Section 41(A) of Cr.P.C. was not at all issued to the petitioner herein and that if issued, he would appear and if it is issued today, he would appear tomorrow and cooperate with the investigation agency.



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7. *The records have been perused by the learned Counsel for the Government Advocate(Crl. Side) who stated that notice had been issued to the family members of the petitioner herein. That is a minor aspect. The crux of the issue is that after registration of the FIR, the first and second accused had mortgaged the title documents of the lands which come under Amaze Nandavanam to Repco Bank in two separate mortgage deeds and had received a sum of Rs.15/- crores each under the two mortgages.*

8. *It is the very specific statement made by the learned counsel for the intervenor that such mortgage had been done only to prevent the investigation agency from taking control of the title deeds of the land covered under Amaze Nandavanam.*

9. *To continue with the narration of facts, the learned Senior Counsel for the petitioner stated that A3 and A1 alone were involved in whatever offences which were stated by the defacto complainant and this petitioner, as A2, has nothing to do with the entire issue and there is no mention about this petitioner in the FIR except in the last portion, wherein it had been stated that the respondent should help the defacto complainant in getting back the amount invested from this petitioner and also from the other accused.*



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10. *The learned counsel for the defacto complainant however stated that the First Information Report and the complaint which had been lodged necessitating registration of the First Information Report have given only a sketch of the agony the defacto complainant had undergone, having deposited amounts with the accused person. It had been stated that there is no possibility of the land either being sold to the defacto complainant or even being leased out to the defacto complainant, since the original title deeds had been mortgaged with the Repco Bank for valuable amount of Rs.15/- crores in two separate mortgage deeds.*

11. *A status report had also been filed on behalf of the respondent and the learned Senior Counsel for the petitioner also took advantage of the statement made in the status report wherein, the list of complainants and addresses had been given. It is seen that there are as many as 19 complaints lodged against the accused person. Each one of them had stated that they had invested sums ranging from Rs.3 lakhs to Rs.20 lakhs. There were also repayments made which had been indicated, and the learned Senior Counsel stated that substantial amounts had been returned back to each one of the complainants, and therefore stated that the petitioner is prepared, not to repay the*



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balance amount, but to provide security for such repayment. That statement does not take the petitioner anywhere, since the basis for lodging of the complaint and the registration of the First Information Report is not readiness to repay, but, initial willingness to receive money from the defacto complainant without any intention to repay. There was no land available and even if land was available, it is now mortgaged with Repco bank. All the three accused will have to stand answerable for the complaint lodged. There cannot be separation in the overt acts as against the accused person herein.

12. Incidentally, A1 and A2 are brothers and A3 is the Chief Executive Officer of the Company called S.M. Group which promoted "Amaze Nandavanam". They had offered lands for sale-cum-lease. They have invited deposits with promise to repay with interest. The lands are now mortgaged with the Repco bank and if the amount of mortgage is not repaid, the lands could even be sanctioned."

3. Thereafter, an affidavit had been filed by A1 wherein he had stated as follows:

"5. I submit that I am ready to execute and register the sale deed for the properties in Amaze Nandhavanam DTCP approval layout No377(R)/2018 house sites located at



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Indalur Village, Sithamur Union, Acharapakkam (Chengalpattu District) in the name of defacto complainant and the other complainants in this case as per the sale cum rental agreement of each persons respectively based on the amount entered in the agreements or after receiving the balance amount for the measurement of land mentioned in the agreement."

4. This Court wanted further details about the properties.

Hence, an additional affidavit had been filed by A1. Totally there are six schedules, among which, schedule-I contains 11 separate plots. The old survey number, new survey number, plot numbers, boundaries, square feet, guide value and market value of each plot had been given. Schedule-II contains 27 separate plots, schedule-3 has 27 separate plots and schedule-4 consists of 23 separate plots, schedule-5 has 22 separate plots and schedule-6 contains 4 separate plots. Similar descriptions have been given for each plots.

5. It is stated that the total square feet of the vacant land is 94,372 sq. ft. The total guideline value is Rs.1,88,74,400/- and the total market value is Rs.4,24,67,400/-



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6. It is stated by the learned counsel appearing for the defacto complainant that the title of the documents had not been filed at the time of execution of sale deed. Hence, the defacto complainant is not in a position to verify the title of the properties.

7. It is stated that the petitioners have come forward to execute the sale deed and if there is any defect in title, certainly, the defacto complainant can seek cancellation of bail.

8. Taking all the factors into consideration, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions:

9. Accordingly, the petitioners are ordered to be released on anticipatory 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-II, Chengalpet** on condition



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that the petitioners shall execute separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties 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 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, as and when required for interrogation.

[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 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].

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

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