Crl.O.P.No.9060 of 2024

T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offences punishable under Sections 406 and 420 of IPC in Crime No.38 of 2023 on the file of the respondent/police, seeks anticipatory bail.

2.It is the case of the prosecution that the defacto complainant's brother-in-law lodged a complaint before the respondent police on 23.09.2022 stating that the petitioner sold a property without having valid title and received Rs.42,14,000/- by executing a sale deed in favour of his brother namely Mr.Kanian Punguntran Naveenan, who died subsequently. Hence the complaint.

3.The learned counsel for the petitioner submits that the defacto complainant is totally wrong and in order to harass the petitioner he lodged such false and vexatious complaint before the respondent police. All piece and parcel of agricultural punja lands situated at No.14, Vellivoyal Village, Poneeri Taluk, Thiruvallur District comprised in various Survey Nos. were originally belonged to Padmanaba Mudaliar, who sold the said properties to Pachaikani Nadar vide Document No.665 of 1982 dated 10.03.1982. Thereafter, the said Pachaikani

Nadar executed a registered sale agreement in the name of M/s.Betala Housing Development Pvt Ltd., represented by its Managing Director Mr.K.Gowthamchand vide Document No.3211 of 2003 dated 18.08.2003. He also executed a registered General Power of Attorney in the name of one Raju, for the very same lands vide Document No.710 of 2003 dated 18.08.2003. Thereafter, upon perusing the relevant documents the petitioner purchased the same through Raju, the General Power Agent as well as M/s. Betala Housing Development Pvt. Ltd., represented by its Managing Director and paid valid consideration. After the purchase, the petitioner was in peaceful possession for several years by cultivating paddy field without any hindrance. After the passage of few years, the petitioner decided to dispose of the property in question. Accordingly, he executed a General Power of Attorney vide Document No.885 of 2012 in favour of one Shankar. Subsequently, one Kanian Punguntran Naveenan and his father Joseph approached the petitioner to purchase the property situated at No.14, Vellivoyal Village, Poneeri Taluk, Thiruvallur District comprised in Survey No.120/2 to an extent of 0.77 cents and collected all the documents for legal consultation. After scrutinizing the documents, they got sale deed registered as Document No.5800/2012 dated 19.07.2012 and the possession was also handed over to them. He further submits that the brother-in-law of the defacto complainant approached and intimated the petitioner that he had received a legal notice from one M/s. Blue chip Logistics (P) Ltd., stating that the land belonging to the company. Therefore the petitioner verified the computerized patta and he found that even the details of the patta transfer file were not available. Thereafter the petitioner gave an assurance to the brother-in-law of the defacto complainant that he was ready to fight legally with M/s. Blue Chip Logistics (P) Ltd and to prove the ownership of the petitioner with regard to the property failing which he would return the sale amount to him. The defacto complainant has stated that Pachaikani Nadar (A3) has executed a General Power of Attorney in favour of Perumal to deal with the said property by which he had executed two documents. Whereas, Pachaikani Nadar has filed two separate suits in O.S.No.187/2007 and O.S.No.121/2008 before the District Munsif Court, Ponneri, in respect of sale agreement and both the suits are under trial. Nowhere in the plaint that the said Pachaikani Nadar mentioned about Perumal and his purchase whereas he asserted that he is the absolute owner of the property. The said Pachaikani Nadar is not executed any Power or any Sale Deed to Perumal. It is clear from the above document, if Pachaikani Nadar had sold the property to Perumal in the year 1995 he would not have entered into any agreement with

M/s. Betala Housing Pvt. Ltd., prior to the petitioner's purchase, he had applied and obtained encumbrance certificate for a period of 30 years, but the certificate reveals no encumbrance especially there was no entry of the alleged sale deed executed in favour of Perumal. All these facts would prove that the petitioner is an innocent and bonafide purchaser and he has not involved in any conspiracy. He is ready and willing to comply with the terms and conditions that are likely to be imposed upon him by this Court. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4.The learned counsel appearing for the intervenor submitted that the defacto complainant on behalf of his sister-in-law Mrs. C.A.Lilly wife of his brother Mr.Kanian Poongundran Naveenan made a complaint before the respondent police. His sister-in-law has obtained loan for the purchase of the said property and still she is paying EMI towards the loan for which still she is working as a Nurse in Kuwait. Two children were born out of the wedlock with the deceased husband are in India. He further submits that if the petitioner is granted anticipatory bail the real background and connivance in this case will not be revealed and the petitioner would evade from the clutches of law. Hence the custodial interrogation of the petitioner is necessary in this case. If the anticipatory bail is granted to the petitioner the real facts will not come to light, which will eventually result in travesty of Justice.

5.The learned Government Advocate (Crl. Side) submitted that he vehemently opposed for grant of anticipatory bail to the petitioner.

6.Heard the learned counsel for the petitioner, learned counsel for the intervenor and the learned Government Advocate (Crl.Side) and perused the materials available on record. At the time of execution of sale deed, power of attorney was in force, subsequently it was cancelled at the time of registration of sale deed, but settled proposition that date of registration of the document is subject matter for trial. In the year 2012 itself he sold the property to the Husband of C.A.Lilly. Since documents are the year of 2012, there is no possibility of tampering evidence.

7.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner.

8.Accordingly, the petitioner is directed to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate, Poonamallee,** on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties, of whom, one surety should be a blood relative, each for a like sum to the satisfaction of the respondent/police or the police officer, who intends to arrest the petitioner, 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 petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;*
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> *(b) the petitioner shall deposit a sum of **Rs.1,00,000/- (Rupees One Lakh Only) to the credit of Crime No.38 of 2023**, before the Judicial Magistrate concerned, within a period of two weeks from the date on which the order copy made ready;*
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> *(c) **the petitioner shall appear before the respondent police on Monday once in two weeks at 10.30 a.m. for a period of eight weeks;***
>
> *(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 Judge himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560];*** *and;*

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

17.04.2024

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T.V.THAMILSELVI, J.

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