



Crl.O.P.No.8714 of 2023

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C.V.KARTHIKEYAN,J.

The petitioners/accused in Crime No.137 of 2023, registered by the respondent police for the offence under Section 420 of IPC, seek anticipatory bail.

2.It is the case of the prosecution that the 1st petitioner had executed a Sale Deed with respect to two house plots in Plot Nos.125 and 126 at Katheri Village in S.Nos.299/2 and 299/5 by way of a registered Sale Deed, registered as Doc.No.878 of 2007 before the Sub Registrar, Komarapalayam. It had been stated that the 1st petitioner was the owner of the plots and he had also given a Power of Attorney dated 13.04.2006 executed in his favour. Thereafter, after purchase of the plots in the year 2007, she wanted to put up construction. She visited the plots again only in the year 2022 and found that there was fencing around the two plots and new owners called Saroja and Vijayakumar claimed title.



3.It is the contention of the learned counsel for the petitioners that unfortunately, in the Sale Deed, the survey numbers and identification of the plots were wrongly given. It is under those circumstances, a complaint had been lodged and FIR came to be registered.

4.The intervenor had entered appearance and the legal aid counsel had also been appointed by this Court for the intervenor. A proposal was put that the accused can convey two other plots, in lieu of the earlier plots, for the loss suffered by the defacto complainant. It is stated that the plots are now abutting the Highways and therefore the market value of the plots had substantially increased, though at the time when Sale Deed was executed in favour of the defacto complainant, the sale consideration paid by her was about Rs.90,000/-.

5.Undertaking affidavits have been filed by the accused undertaking to pay a reasonable market value of the two plots. The matter had been oscillating to and fro on this issue. It is therefore directed



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taking into consideration all the factors and the interest of all the parties that the accused should deposit a sum of Rs.10,00,000/- to the credit of Crime No.137 of 2023 and on such deposit, the Judicial Magistrate, Komarapalayam, may pay a sum of Rs.8,00,000/- to the defacto complainant.

6.It is made clear that such deposit would not indicate that the petitioners had admitted to any of the allegations in the complaint lodged by the defacto complainant or in the FIR registered by the respondent and it would also not preclude the defacto complainant from claiming any further amounts either damages or compensation from two accused persons.

7.The learned Judicial Magistrate, Komarapalayam, may deposit the balance amount of Rs.2,00,000/- in an interest earning Fixed Deposit in any one of the Nationalised Banks and pass final orders at the time of final judgment in the resultant trial which is to take place on filing of the final report by the respondent. If the accused are acquitted,



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the amount together with interest which had accrued may be handed over back to the accused. If the accused are convicted, the amount together with interest may be handed over to the defacto complainant. During the evidence to be tendered, the defacto complainant may also indicate the actual loss suffered by her and the learned Magistrate, is at liberty to pass appropriate orders, on analysis of such evidence.

8.Taking all these facts into consideration, I am inclined to grant anticipatory bail to the petitioner with certain conditions:

9.Accordingly, the petitioners in both the Criminal Original Petitions 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 **Judicial Magistrate, Komarapalayam** on condition that the petitioners shall execute separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** each 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



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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 appear before the respondent police everyday at 10.30 a.m., for a period of three weeks and thereafter, as and when required for interrogation.

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

[e] the petitioners 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 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.**



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State of Kerala [(2005)AIR SCW 5560].

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

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