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Crl. O.P. No.14071 / of 2024

P. DHANABAL.J.,

The petitioners / Accused 1 and 3, who apprehend arrest in the hands of the respondent police for the offences punishable under Sections 406, 420 and 120-B of IPC in connection with the Cr. No.30 of 2024, seek anticipatory bail.

2. The case of the prosecution is that the petitioners and the wife of the 1st petitioner were the Trustees of the Open Hands International (India). The Trust was formed in the year 2000 with an object to educate the poor people and established Children Homes for orphans. But the petitioners and the other accused, sold the Trust property in low price and enjoyed the money for their own benefits. Hence the complaint.

3. The learned counsel for the petitioners would contend that the respondent police have registered a false case as against the petitioners and other accused for the offences under Sections 406, 420 and 120-B of IPC. As per the prosecution, the defacto complainant Mr. J.D. Socrates, is an advocate engaged in social awareness work and the petitioners along with other accused have sold the Trust property and enjoyed the money for

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their own benefits. Hence the complaint was lodged by the defacto complainant. In fact, the petitioners and the wife of the 2nd petitioner were the Trustees of the Open Hands International (India) and the Trust was formed in the year 2000 and the object of the Trust is educating the poor people and establishes Children homes for orphans. While so, for the development of the Trust, the Trustees to purchase a property at Thondamuthur area, Deverayapuram Village, Coimbatore and the Trustees obtained loan of Rs.10 lakhs from Nayagara Finance on 11.12.2006 and after getting loan, on 13.12.2006, the Trustees purchased the property in the name of Open Hands International (India), represented by the Managing Trustee in the name of the 1st petitioner to an extent of 7.18 acres. The Trustees did not collect any funds from Church member or public to purchase the land. The Trustees decided to sell the above said property during COVID period, thereby, they passed a resolution on 08.04.2021 to sell the property to the 4th and 5th accused for a sale consideration of Rs.49,90,000/-. The total sale consideration amount was deposited in the ICICI Bank and HDFC Bank in the name of Open Hands International (India). The 1st petitioner's wife i.e., 2nd accused died on 01.06.2021 due to Covid-19. The benefit of the money was utilized by the Trustees for the Orphans and poor people during the time of Covid-19.

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The petitioners sold the property with the consent of all the Trustees, as per the Clause mentioned in the Trust Deed. While so, these petitioners have been falsely implicated in this case and they are innocent persons. Moreover, during the pendency of the petition, this Court has granted interim anticipatory bail on condition and the petitioners have filed affidavits before this Court by giving undertaking to cancel the Sale deeds dated 26.04.2021 and 29.04.2021 without any prejudice to the defence taken by them. Thereafter, when these petitioners are ready to cancel the Sale deed, the purchasers/accused 4 and 5, are not ready to cancel the Sale deed. Therefore, they are unable to comply the conditions and to that effect, they have also filed affidavits. Therefore, the interim anticipatory bail granted to the petitioners shall be made absolute and they may be released on anticipatory bail.

4. The learned counsel appearing for the intervenor/defacto complainant would submit that the defacto complainant is a Christian by birth, an Advocate by profession and a social service worker and also a founder, Chairman of Social awareness movement. In due course of social life, the petitioner was a regular donor to the Churches and public trusts which includes the 1st Public Trust namely Open Hands International

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(India). The 1st accused is the Managing Trustee of the said trust and the 3rd accused is the Trustee and also in the Board of Trustees of the said Trust along with the deceased / 2nd accused and the accused 4 and 5 are the purchasers of the said Public Trust properties fraudulently. After execution of the Trust deed of the said Trust in the year 2000, the 1st accused and his deceased wife started to take public donations from the donors like the defacto complainant and his friends, who have pooled in donations to the tune of Rs.1,75,000/- to the said Public Trust and the 1st accused had purchased the property. The said Public Trust has been grossly mismanaged by the 1st accused and his wife, thereby they fraudulently sold the Trust properties to the accused 4 and 5, thereby, he lodged a complaint and the respondent police have also registered the case as against the accused. This Court, earlier, granted an interim anticipatory bail with condition to cancel the sale deed executed by the accused 1 and 3 in favour of the accused 4 and 5 and also they have to file undertaking affidavit to that effect. Based on the above affidavits, this Court also directed to cancel the sale deed executed by the accused 1 and 3. But after grant of interim anticipatory bail, they have not complied the condition imposed by this Court and therefore, they are not entitled to anticipatory bail and hence this petition is liable to be dismissed.

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5. The learned Government Advocate (Criminal Side) would submit that the accused have sold the Trust properties to the other accused, mismanaged the Trust and misappropriated the Trust funds and therefore, the defacto complainant lodged a complaint and based on the complaint, the respondent police have registered an FIR for the offences under Sections 406, 420 and 120-B of IPC and now the case is pending for investigation and investigation is not yet completed. Further he submitted that already this Court granted interim anticipatory bail to the petitioners on condition to cancel the sale deed and they have not complied the condition and hence he strongly opposed to grant anticipatory bail to the petitioners.

Heard both sides and perused the materials available on record.

6. The main allegations as against these petitioners have created the Trust, obtained donations from the public and through public funds, they purchased the property and thereafter sold the property to other accused and thereby, they mismanaged the Trust and misappropriated the Trust funds. Already this Court granted interim anticipatory bail to the

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petitioners on condition to cancel the sale deed executed by them in favour of the accused 4 and 5. Though these petitioners have filed affidavits before this Court stating that they are ready to cancel the sale deed, but the purchasers / accused 4 and 5 have not filed any affidavit before this Court to the effect that they are ready to cancel the sale deed executed in their favour. According to them, they purchased the property for a valuable consideration and already they filed a Civil suit and the same is also pending. As far as the sale deed is concerned, it is for the Civil Court to decide the same in accordance with law.

However, considering the rival submissions on either side, considering the nature of offence involved in this case, considering the fact that already the amount was deposited into the bank account and no amount was expended by the parties and though the petitioners are ready to cancel the sale deed, the purchasers are not ready to co-operate for the same, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days

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from the date on which the order copy made ready, before the **Judicial Magistrate Court No.VII, Coimbatore o**n condition that the petitioners shall each execute 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 Magistrate concerned and on further condition that:

[a] the petitioners **shall report before the respondent police daily at 10.00 a.m. until further orders;**

[b] the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;

[c] the petitioners shall not leave India without the previous permission of the Court;

[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 petitioners in accordance with law as if the conditions have been imposed

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

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.2023.

25.10.2024
[2/4]

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To
1.The Judicial Magistrate Court No.VII, Coimbatore
2. The Public Prosecutor, High Court, Madras.
3.The Inspector of Police, CCB Branch, Coimbatore City, Coimbatore.

P.DHANABAL,J
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25.10.2024
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