



Crl. O.P. No.20619 of 2024

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P. DHANABAL.J.,

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The petitioner / Accused-1, who apprehends arrest in the hand of the respondent police for the offences punishable under Sections 447, 420, 465 and 506(i) of IPC in connection with the Cr. No.207 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that on 10.06.2024, the petitioner/1st accused along with other accused, had trespassed into the house of the defacto complainant and stated that the property belongs to them and asked to vacate the defacto complainant from the property and also threatened him with dire consequences. The subject property was acquired by the defacto complainant's father and after his demise, the defacto complainant is in possession and enjoyment of the property and the accused have forged the signatures and created forged documents and hence the case.

3. The learned counsel appearing for the petitioner would submit that the land comprised in S. No.1370/1 belonged to one Rathinam and the same was purchased by the father of the defacto complainant and then the



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father of the defacto complainant had executed two sale deeds in favour of the petitioner and others for sale consideration and in the said sale deeds,

M. Mohamed Niyamatullah and Mohamed Habibullah, the defacto complainant, had duly attested as witnesses and accordingly, the property was handed over to the petitioner and others and in the year 2007, the petitioner along with other purchasers have executed a sale deed and transferred the said property in favour of this petitioner Kumarasamy, Son of Shanmugam, the 1st accused in this case and the 1st accused had obtained patta in his favour and he is running a small scale industry in the said property. Due to the harassment of the defacto complainant, the petitioner/1st accused has filed an O.S. No.70 of 2024 for declaration of title and permanent injunction restraining the defacto complainant and others from interfering with his peaceful possession and enjoyment of the said property and the same is pending, that for the same cause of action, already in the year 2007, criminal action was initiated against the accused persons, which was subsequently closed and now, again for the same cause of action, the defacto complainant has filed the present complaint in the year 2024, in order to harass the petitioner and others, that the defacto complainant has also filed a Suit in O.S. No.24 of 2008 before the District Munsif Court, Chengalpattu and also lodged a criminal complaint in Cr.



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No.10 of 2008 against the petitioner and others and in the said case, the petitioner was granted anticipatory bail and the said case was also closed as mistake of fact, that the said Suit in O.S. No.24 of 2008 was also dismissed for non-prosecution, that the defacto complainant has lodged the complaint only with an intention to harass the petitioner and others, that there is no other case is pending against the petitioner, that he is an innocent and he has not committed any offence as alleged by the prosecution and that he is ready to abide by any condition imposed by this Court. Hence he prayed to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police would contend that the defacto complainant's father had purchased a land comprised in S. No.1370/1 on 26.10.1968 in Thaiyur Village measuring to an extent of 28 cents, which was belonging to one Rathinam and ever since, his father was in possession and enjoyment of the said property till his death on 09.01.1992, that the defacto complainant is his legal heir, that the accused persons have impersonated his father, who actually died on 09.01.1992 and also impersonated the legal heirs and subsequently they executed sale deed in favour of one Kumarasamy and when the defacto complainant went to the subject land on 10.06.2024, the



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accused persons threatened him with dire consequences and that the accused have forged the signatures and created forged documents and this petitioner is arrayed as A1 and hence he objected for the grant of anticipatory bail.

5. The learned counsel appearing for the intervener has reiterated the arguments of the learned Government Advocate appearing for the State and he further stated that this petitioner and other accused joined together and alienated the properties by forging the documents and by impersonation, thereby he strongly objected to grant anticipatory bail to the petitioner.

6. Heard the arguments and perused the materials available on record.

7. Considering the arguments putforth on either side, considering the fact that the alleged occurrence had taken place in the year 1992 and thereafter, for the same cause of action, already an FIR has been registered and thereafter the said FIR was closed as mistake of fact, that civil suits were also filed and the same were dismissed, that the alleged offences are based on records and hence there would be no chance for tampering witnesses and considering the delay in lodging the complaint, I am



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inclined to grant anticipatory bail to the petitioner, subject to the following

conditions:

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **District Munsif-cum-Judicial Magistrate, Thiruporur** on condition that the petitioners shall 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 petitioner shall report before the respondent police on daily at 10.00 a.m. until further orders;

[b] the petitioner 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 petitioner shall not leave India without the previous permission of the Court;



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[d] the petitioner 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].

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

11.09.2024

[5/5]

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P.DHANABAL,J

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To

- 1.The District Munsif-cum-Judicial Magistrate, Thiruporur
2. The Public Prosecutor, High Court, Madras.
- 3.The Inspector of Police, Kelambakkam Police Station, Tambaram



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