



CrI.OP.No.22873 of 2023

CrI.O.P.No.22873 of 2023

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C.V.KARTHIKEYAN,J.

The petitioners/A5 and A6 have filed this application seeking anticipatory bail in Cr.No.116 of 2023 registered by the respondent police for the offences punishable under Sections 419, 465, 467, 468, 471, 34 and 120B IPC seek anticipatory bail.

2. The entire issue surrounds the land at Plot No.5 in Survey No.4086 and 4087 at New Washermenpet in Tandiarpet measuring totally to an extent of 655 sq.ft each, out of 2511 sq.ft.

3. It is the contention of the defacto complainant that the said property, had been dealt with by the accused persons on the basis of two fraudulently obtained powers of attorney and later the property had been partitioned among the persons who had no right or title over the said property.



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4. It is his further contention that in this connection, A1 had been granted bail. But, since nobody had come forward to execute sureties, he continues to remain in custody. The obligation of A1 was to come out and cancel the partition deed which had been executed. There are two powers of attorney which had been executed and it is informed that they have been cancelled. The first petitioner herein/A5 is one of the witnesses of the document and the second petitioner/A6 is the one of the power agent.

5. By way of reply, the learned counsel for the petitioner stated that so far as the powers of attorney are concerned, those documents have been cancelled and therefore, these petitioners, who are not in any manner connected with the partition deed cannot be called upon to suffer not grant of order of anticipatory bail till the partition deed is cancelled.

6. The learned Government Advocate (Crl.Side) had brought to the notice of this Court the original track of flow of title. There was a partition deed in the year 1976 granting 2511 sq.ft to each one of eight



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co-sharers. When one of the legal heirs S.Ganesha Murthi was still alive, a forged death certificate had been created, as if he was dead and thereafter, further documents had been created omitting him and his line of successors. The partition deed had also been created, omitting him.

7. The learned Government Advocate further stated that the particular partition deed had been registered as Document No.2376 of 2022 dated 07.07.2022 before the Sub Registrar Office at Royapuram. The first petitioner/A5 is the second witness in the said document. It is also stated that the second petitioner/A6 who is a Real Estate Broker along with A7 was the agent who had been nominated under a general power of attorney document registered as Document No.2377 of 2022, again on 07.07.2022 before the Sub Registrar at Royapuram. Even in that particular document the first petitioner/A5 had signed as witness. The issue can only be resolved only when the partition deed dated 07.07.2022 in Document No.2376 of 2022 is cancelled as being a fraudulently created document. A1 will have to be physically present, but, he is in custody.



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8. Taking all those factors into consideration particularly, since the powers of attorney had already been cancelled, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

9. 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 from the date on which the order copy made ready, before the *learned Metropolitan Magistrate, Egmore, Chennai* on condition that each of the petitioners shall execute separate bonds 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.



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[b] the petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.

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

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

10. The learned Chief Metropolitan Magistrate, Egmore, Chennai may examine the records in Cr.No.116 of 2023 registered by the CCB-I, Vepery, Chennai under Sections 419, 465, 467, 468, 471, 34, 120b IPC and examine the order granting bail to the first accused/Amutha



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(Amuthalakshmi) who had been directed to be released on bail by the Metropolitan Magistrate Court for the CCB cases and it is not able to be released consequent two sureties not been produced. The learned Chief Metropolitan Magistrate, Egmore, Chennai may get necessary details from the Inspector of Police, CCB-I, Vepery relating to Cr.No.116 of 2023 and give necessary instructions to the said Metropolitan Magistrate for CCB Cases to enable if it is possible for the said detenu for the said incarcerated persons to Amutha (Amuthalakshmi)/A1 to be released from custody.

11. With the above directions, this Criminal Original Petition is ordered. Consequently, the connected miscellaneous petition is closed.

26.02.2024

Vv

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The Chief Metropolitan Magistrate,
Egmore, Chennai



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