Crl.O.P.Nos.23862 and 25260 of 2023
and
Crl.MP.No.18242 of 2023

C.V.KARTHIKEYAN, J.

The petitioner/A4 has filed Crl.OP.No.23862 of 2023 and the petitioner/A8 has filed Crl.OP.No.25260 of 2023, both in Cr.No.13 of 2022 registered by the respondent police for the offences punishable under Sections 420, 419, 465,471, 34 of IPC seek anticipatory bail.

2. It is the case of the prosecution that one Shanmuga Sundaram owned 2.7 acres of of land at Periyapalayam and wanted to sell the said property. It is stated that taking advantage of knowledge of this particular fact, A1 had impersonated as Shanmuga Sundaram and obtained an Identity card and later also obtained Non Traceable Certificate with respect to the documents of title and thereafter, with the assistance of all the accused had sold the property for a total consideration of Rs.1,22,79,000/- (Rupees One Crore Twenty Two Lakhs and Seventy Nine Thousand only) to the defacto complainant. Thereafter the defacto

complainant went over to the said land to take possession, found that the actual Shanmuga Sundaram was a different person and not A1 who had impersonated as Shanmuga Sundaram and therefore, the defacto complainant was not able to take possession of the land. It was under those consideration, he had lodged a complaint and FIR had been registered.

3. It is stated by the learned Government Advocate (Crl.Side) that except for these two accused namely A4 and A8, all the other accused had been remanded to judicial custody. With respect to A4, it is stated that he is a friend of A1/ impersonator of Shanmuga Sundaram and had benefited to a sum of Rs.20,00,000/- being paid to him directly. He acted as a Mediator in the entire transaction. It is stated that he had direct knowledge that A1 was not the actual Shanmuga Sundaram and not the actual owner of the property.

4. The learned counsel for A4 however disputed that particular amount and stated that A4 had received only a sum of Rs.2,00,000/- as

commission. It is also contended by the learned counsel that A4 is prepared to deposit the said amount into court to the credit of Crime Number before the Jurisdictional Magistrate Court.

5. So far as A8 is concerned, It is the contention of the learned Government Advocate that A8 is also a friend of A4 and also A1 and it is stated that in his bank account, a sum of Rs.20,00,000/- had been transferred and that he had benefited to that particular extent.

6. The learned counsel for A8 however stated that the said transfer was by RTGS and the transfer was not to the knowledge of A8 and he did not have control over such transfer and it is also contended by the learned counsel that the amount had been immediately withdrawn by A4. It is also stated that he had also suffered an accident and had suffered grievous injuries with neck injury also.

7. It is further stated by the learned counsel for A8 that he is innocent of the transaction and did not know about the sale of land or

about the impersonation of Shanmuga Sundaram. It is stated that the amount had been transferred to his account and later withdrawn by A4. It is therefore contended that since he is innocent of the main offences, anticipatory bail should be granted.

8. The learned counsel for the Intervenor is also present. He had raised strong objections granting any relief. He stated that A1 and A4 had come over to the defacto complainant in person and had offered to sell the land belonging to Shanmuga Sundaram and bonafide believing that representation, it is stated that he had paid a sum of Rs.70,00,000/- by cash. It is stated that the presence of A1 and A4 in the office of the defacto complainant had also been recorded in the close circuit television and the learned counsel stated that he had also forwarded a copy of such video recording to the Investigating Officer along with certificate under Section 65 B of Indian Evidence Act, 1982.

9. It is stated that quite apart from that A4 had also benefited a sum of Rs.20,00,000/-. With respect to A8, it is stated that A8 had opened a

fake account in his name and in the name of A1 Shanmuga Sundaram and there has been a transfer of Rs.19,00,000/- to the said account. Quite apart from that there has been payment of Rs.1,00,000/- in cash to A8. It is therefore contended that both these accused had benefited monetarily to a substantial sum. It is stated that the defacto complaint had suffered huge loss of about Rs.2 Crores. The learned counsel also stated that one of the accused had been granted bail by the Single Judge of this Court on condition to deposit a sum of Rs.20,00,000/- and therefore pointed out that particular aspect.

10. I have carefully considered the representations made. It is seen from the records that one Shanmuga Sundaram was the owner of substantial portion of land measuring to an extent of 2.47 acres at Periyapalayam at Thiruppur District. The accused had somehow come to know that he was ready to sell the land, but however, they created another Shanmuga Sundaram and in this manner A1, became Shanmuga Sundaram in reality and also had identity cards categorizing himself as Shanmugasundaram. There was an issue of the documents of title. It is

seen that the accused had obtained a Non Traceable Certificate which would evidently mean that original title deeds had been misplaced or lost. Armed with such identity cards and with that certificate, A1 and A4 had approached the defacto complainant who had parted initially with a sum of Rs.70,00,000/-. This transaction was also videographed by the defacto complainant. The learned counsel for the Intervenor/defacto complainant stated that he had given copy of such recording to the investigating officer.

11. A4 had come over to the office of the defacto complainant along with A1 and it is the specific case of the defacto complainant and also the prosecution that a sum of Rs.70,00,000/- had been paid in cash at that time. Apart from that it is also the specific case that he had benefited to a sum of Rs.20,00,000/- . He had acted as a Mediator in the entire project, if at all, such cheating and forgery is to be termed as a project.

12. So far as A8 is concerned, the very fact that a bank account was opened in his name and in the name of Shanmuga Sundaram shows

that he cannot seek ignorance or plead innocence of the entire transaction. In the said bank account, a sum of Rs.19,00,000/- had been transferred by RTGS and thereafter it had been withdrawn. Unless he had consisted, withdrawal is not possible. Amounts could be deposited if one could know the details of the bank account, but, withdrawal, without the consent of the account holder is not at all possible. Therefore, it is clear that both these petitioners/ A4 and A8 were directly involved in the entire offence which had been alleged by the prosecution against them.

13. The claim that they are prepared to deposit the amounts, cannot be taken into countenance as it only shows that they had benefited from the entire transaction and are now prepared to pay that amount. As a matter of fact, learned counsel for A4 stated that A4 had received only a sum of Rs.2,00,000/- and that he is prepared to pay back the sum of Rs.2,00,000/- whereas, it is the contention of the learned counsel for the Intervenor that A4 had benefited to a sum Rs.40,00,000/- .

14. Taking all those facts into consideration and I am not convinced with the bonafide either the A4 or A8. I am not inclined to grant anticipatory bail to the petitioner.

15. Accordingly, these Criminal Original Petitions seeking anticipatory bail stands dismissed. Consequently, the connected miscellaneous petition is closed.

Vv 29.01.2024

C.V.KARTHIKEYAN,J.

Vv

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