



Crl. O.P. No.24951 of 2024

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P. DHANABAL.J.,

The petitioner / Accused, who apprehends arrest in the hands of the respondent police for the offences punishable under Sections 420, 465 and 468 of IPC in connection with the case in Cr. No.39 of 2024 on the file of respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had formed a layout in the name of Marutham Garden consisting of 61 cents after obtaining power of attorney from the Principal Petchimuthu for 53 cents in S.F. No.703 and 8 cents in S.F. No.686 / 2 and the same was sold to various persons and he also settled the balance 21 cents in the name of his son Karthikeyan through a Sale deed. In the above said 21 cents, an extent of 805 sq. ft. of land and 159 sq. ft. are the sites gifted to the Vellalore Town Panchayat for public purpose. As per the report of Tahsildar, 13.5 cents of land belonging to the adjacent Abirami Garden Open Space Reservation Site earmarked as Park Site-II has been encroached by the petitioner and his son. The District Collector, Coimbatore directed the Town Panchayat to initiate action based on the report through proceedings dated 15.02.2023. Therefore, the present complaint was lodged.

3. The learned counsel appearing for the petitioner would submit



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that the respondent police have registered a false case as against the petitioner for the offences under Sections 420, 465 and 468 of IPC alleging

that an unapproved lay out is formed in the name of Abirami Garden in the land situated in S.F. No.683/28, 20, 684/1, 2, 3A, 38, 30, 30, 4, 586/2, 6871, 3, 704/2, 705/2, 3 and 705/5 at Vellalore Village, Madukkarai Taluk, Coimbatore. Thereafter, the said Abirami Garden had gifted land to an extent of 46.25 cents to the Vellalore Village. Thereafter, a complaint was lodged by the revenue officials that this petitioner had illegally encroached the OSR land and the same was challenged by this petitioner in W.P. No.10946 of 2023 and thereafter, he filed a W.A. No.3085 of 2023 before the Hon'ble Division Bench of this Court and the same was disposed by directing the revenue officials to conduct denova enquiry and based on the directions issued by this court, the District Collector, Coimbatore had conducted the enquiry and found that this petitioner had illegally encroached the OSR land, thereby a complaint was lodged by the Executive Officer. In fact, the subject matter of the property to an extent of 61 cents belongs to one Pechimuthu through sale deed in the year 1963. The said Pechimuthu executed a General Power of Attorney on 13.12.2010. Based on the said power deed, the petitioner executed a sale deed dated 30.03.2012 in favour of the petitioner's son Karthikeyan to an



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extent of 21 cents and the remaining 40 cents was sold by way of forming

a layout in the name and style of "Marutham Garden". Therefore, this

petitioner along with other purchasers are in peaceful possession and

enjoyment of the property. In the said Marutham Garden, 8 plots were

sold to various persons. In the year 2018, the adjacent land owner namely

Venkateshwara Developers formed a layout under the name and style of

"Abhirami Gardens" and executed a gift settlement deed in favour of the

Executive Officer, Vellalore Panchayat and conveyed an extent of 46.25

cents for public purpose. Thereafter, the revenue authorities surveyed the

land and filed a report that the petitioner had encroached the land which

was given to the Vellalore Panchayat by Abhirami Garden and hence the

District Collector, Coimbatore has passed an order and the same was

challenged through a Writ petition and the same is also pending.

Therefore, the petitioner has no intention to cheat anybody and he has not

committed any offence as alleged in the FIR and therefore, he prays to

grant anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor / defacto

complainant would submit that on 12.08.2022, one K. Raju, a political

party secretary of Vellalore Town Panchayat submitted an application for



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survey of lands pertaining to Open Space Reservation Site gifted to the Vellalore Town Panchayat in the Abhirami Garden Layout based on the complaint received from the public. Therefore, the said Executive Officer sent a letter to the Tahsildar, Mathukarai and also surveyed the property and took measurements and as per the Surveyor report, the enquiry was conducted and as per the enquiry report, Maruthachalam S/o. Uchakonar had formed a layout in the name of Marutham Garden consisting of 61 cents after obtaining power of attorney from the Principal Petchimuthu for 53 cents in S.F. No.703 and 8 cents in S.F. No.686 / 2 and the same was sold to various persons and settled the balance 21 cents in the name of his son Karthikeyan through a Sale deed. In the above said 21 cents, an extent of 805 sq. ft. of land and 159 sq. ft. are the sites gifted to the Vellalore Town Panchayat for public purpose. The District Collector, Coimbatore directed the Town Panchayat to initiate action based on the report through proceedings dated 15.02.2023. Thereafter, the Executive Officer lodged a complaint as against the petitioners. Thereafter, this petitioner had filed a Writ Petition in W.P. No.16314 of 2024 and obtained stay order by false representations as if only 159 sq. ft. of land has been in question. As per the report of Tahsildar, 13.5 cents of land belonging to the adjacent Abirami Garden Open Space Reservation Site earmarked as Park Site-II



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has been encroached by the petitioner and his son. Therefore, the present complaint was lodged. The investigation is at initial stage. Hence, strongly objected to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that based on the complaint given by the defacto complainant, this FIR has been registered for the offences under Sections 420, 465 and 468 of IPC and now the case is pending for investigation and investigation is at initial stage and hence strongly opposed to grant anticipatory bail to the petitioner.

6. Heard both sides and perused the materials available on record.

7. Considering the representations made on either side, considering the fact that there is a civil dispute pending between the parties in respect of extent of the property and this petitioner is a Power holder and he already sold the property based on the Power deed and already the property was also gifted to the concerned Panchayat for public purpose, that there is a dispute towards the extent of the property, that Writ petition filed before this Court and the same is pending, that even as per the prosecution, the alleged offences are borne out of the records and therefore,



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there is no scope for the tampering of evidence and considering the fact that there is no previous case pending against the petitioner, I am inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

8. 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 **Judicial Magistrate Court No.VII, Coimbatore** on condition that the petitioner 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 daily at 10 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 him from disclosing such facts to the Court or to any police officer;



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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.

18.10.2024
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To

- 1.The Judicial Magistrate Court No.VII, Coimbatore.
2. The Public Prosecutor, High Court, Madras.



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3.The Inspector of Police, City Crime Branch, Coimbatore City,
Coimbatore District.

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