



Crl.O.P.Nos.26699 & 27610 of 2024

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A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120B, 419, 420, 465, 466, 467, 468, 471, 473, 476 of I.P.C. in Crime No.33 of 2024, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant Nagaraj S.Sarma is that he is the Executor of the Will of late Sri C.Hanumantha Rao in his registered Will dated 16.08.2005. The said C.Hanumantha Rao died issueless and the registered Will dated 16.08.2005 had revoked all of C.Hanumantha Rao's prior Wills. While so, the 1st accused, who is his cousin, had fabricated a Will supposed to be registered by his uncle C.Hanumantha Rao dated 12.10.1972 and he along with his friend transferred the properties to several parties. The Inspector General of Registration had conducted enquiry and he had filed a complaint pointing out the discrepancies with regard to the fabricated Will. Hence, the case. Based on that, the F.I.R. in Crime No. 33 of 2024



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was registered for the offence under Sec.120(b), 419, 420, 465, 466, 467, 468, 471, 473, 476 of I.P.C.

3. Mr.V.Ramamurthy, learned counsel appearing for the petitioner in Crl.O.P.No.26699 of 2024 submitted that the petitioner is an innocent person and the case of civil nature has been wrongly projected as a case of forgery and fabrication of document. He would further submit that the defacto complainant is none other than the cousin of the petitioner and he had suppressed the earlier Writ Petition filed by the petitioner in W.P.No.7692 of 2024 before this court, wherein, this Court directed the Civil Court to decide the case on its own merit uninfluenced by any of the observation made in the order. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. Dr.Fr.Xavier Arulraj, learned senior counsel appearing for petitioner in Crl.O.P.No.27610 of 2024 would submit that the petitioner is a bonafide purchaser and he has purchased the property believing the Will to be genuine. He would submit that the petitioner undertakes not to further alienate or encumber the property and he is ready to file necessary



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affidavit before the learned Judicial Magistrate regarding the same.

Hence, he prayed for grant of anticipatory bail to the petitioner.

5. Mr.S.Santhosh, learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner in Crl.O.P.No.26699 of 2024 had fabricated a Will and inserted the same in the office of S.R.O., Salem. He would further submit that a preliminary enquiry has been conducted by District Registrar, wherein he had pointed out the manner in which, the fraud had been committed. Though in the Writ Petition in W.P.No.7692 of 2024, this court had directed the Civil Court to decide the case on its own merit, this Court had also held that the observation has been made only for the purpose of disposing of the Writ Petition and not on the merits of the case. He would further submit that it is a case, whether the fraud has been committed in the office of Sub-Registrar, where Government records have been tampered and that the investigation is only in a nascent stage and the custodial interrogation of the petitioner in Crl.O.P.No.26699 of 2024 is very much required. Hence, he would object for grant of anticipatory bail to the petitioners.



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6. Mr. B.R.Ramman, learned senior counsel appearing for intervenor would submit that the defacto complainant is nephew of C.Hanumantha Rao, who died issueless. The said C.Hanumantha Rao had executed a Will in favour of defacto complainant on 16.08.2005. In order to grab his properties, A1 S.Sudharshan had fabricated the Will and with the help of the officials and have inserted the Will in the office of S.R.O., Salem. The Report has been obtained from the District Registrar in respect of forged Will inserted in the S.R.O. office. He would submit that the specific findings with regard to the forgery of signatures and also with regard to the fabrication of seals used in the document have been recorded by the District Registrar. Hence, he would object for grant of anticipatory bail to the petitioners.

7. The learned counsel for one of the beneficiary under the Will dated 16.08.2005 would submit that based on the fabricated Will, the petitioner in Crl.O.P.No. 26699 of 2024 had sold the property to third party, thereby defeating the right of petitioner.

8. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl. Side) appearing for the respondent police



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and learned counsel for Intervenor and perused the materials available on record including the FIR.

9. So far as the petitioner Crl.O.P.No.27610 of 2024 is concerned, taking note of the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the fact that the petitioner is said to be a bonafide purchaser, having paid consideration for purchase of the property and also taking into consideration of undertaking given by the petitioner that he is ready to file an affidavit of undertaking not to alienate or encumber the property till the disposal of the criminal case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10. So far as the petitioner in Crl.O.P.No. 26699 of 2024 is concerned, the custodial interrogation of the petitioner is required. Hence, the anticipatory bail in respect of petitioner viz., S.Sudharsan stands dismissed.

11. Accordingly, the petitioner in Crl.O.P.No. 27610 of 2024 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



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made ready, before the learned Judicial Magistrate No.2 Court Complex, Salem, on condition that the petitioner shall execute a separate bond 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 petitioner 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.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of four weeks and thereafter, on every Saturday at 10.30 a.m. until further orders.

[c] the petitioner shall file an affidavit undertaking not to alienate or encumber the property till the disposal of the criminal case;



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[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of B.N.S.

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