



Crl.O.P.No.27393 of 2024

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A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest in connection with Crime No.149 of 2024, registered offences punishable under Sections 406, 420, 465, 468, 471 r/w. Section 120B of IPC, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant, Mrs.S.R.Booshanam is that, she is the owner of the property measuring 4 Acre and 54 cents in Kovilanjari Village and she also owns a property built upon 1562 Sq.ft of land in Shenoy Nagar, Chennai. The further allegation is that the petitioner herein/A1 and A2, who are her sons, had taken her to a Registrars office at Tambaram on 01.06.2007 and in the guise of obtaining her permission to put up a petrol bunk in the land, had executed a Settlement Deed and cheated her and that she came to know about the fraud only after the property was sold to some builders. Her further allegation is that in the guise of carrying out some correction in the documents, had obtained her signatures and created documents as if she had relinquished her life interest assured over the house property and driven her out of her house and thereby cheated her. Hence, the case.



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3. Pleading innocence on the part of the petitioner, false implication in the case, learned counsel for the petitioners seek indulgence of this court in granting anticipatory bail by further contending as under:-

i) The petitioners father passed away on 24.09.2023, at the ripe age of 96. During the life time of the father, the marriage of the sisters had been conducted and thereafter, on the direction of their father, their mother had executed a settlement deed on 01.06.2007 settling the property at Kovilanchery and the house property at Shenoy Nagar in favour of the petitioners retaining the life interest in respect of the house property.

ii) Subsequently, the defacto complainant has also appeared before the SRO office for certain rectification deeds on 21.09.2012 and 08.03.2021. The petitioners have, later, developed the property and sold it to a builder. The married sisters, on coming to know that the petitioners have got some gain in the transaction, had instigated their mother to file a suit in O.S.No.7241 of 2021 seeking to set aside the settlement dated 1.6.2007 on vague and untenable grounds. The petitioners' sisters have filed a suit in O.S.No.6337 of 2023 on the file of the VII Additional City Civil Court seeking to declare the settlement deed as null and void and also for partition.

iii) Whiles, suppressing the litigations pending between the parties, the defacto complainant, had, earlier, given a complaint in the year 2021 before



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Kilpauk Police Station and that the petitioners were called for enquiry and the matter was closed as mistake of fact. Subsequently, the defacto complainant had approached the Special Court for CCB & CBCID cases and filed Crl.MP.No. 26199 of 2024 dated 10.05.2024 and on the directions of the Court under Section 156(3) of Cr.P.C, the respondents had registered the case.

iv) A case of civil nature has been attempted to be given a criminal colour and the defacto complainant and daughters are attempting to settle a case of civil nature by arm twisting and under the threat of arrest. The entire case of the prosecution is borne out by documents and custodial interrogation of the petitioners would not be required. The subsequent purchasers, who are defendants in O.S.No.7241 of 2021 and 6337 of 2023, have compromised the matter with the defacto complainant and they have also paid an amount of Rs.6 Crores for settling the issue with the defacto complainant and thereby, the petitioners are entitled to grant of anticipatory bail.

4. The case of the prosecution as put forth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, is that the petitioners being the sons of the defacto complainant, on 01.06.2007, under misrepresentation, made the defacto complainant to settle two properties in their favour. He would further submit that the case is registered based on the directions issued under Section 156 (3)



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of Cr.P.C and investigation is still pending.

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5. Mr.H.Manivannan, learned counsel appearing for the defacto complainant/intervenor, who vehemently opposed for grant of anticipatory bail to the petitioners, would submit that that the petitioners, who are the sons of the defacto complainant, had misled her and taken her to Sub Registrar Office on 01.06.2007 and in the guise of getting NOC for putting up a petrol bunk in the property, had executed a settlement deed and thereby cheated the defacto complainant. He would submit that the petitioners have also thrown the mother out of the house, despite their being a life interest on the property. He would further submit that though it is stated that the petitioners have compromised in the Civil Suit with regard to respondents 6 to 8, who are the subsequent purchasers, the defacto complainant has not compromised with the petitioners/accused.

6. The learned counsel for the petitioners would submit that the petitioners are living outside and even as per the complaint, the defacto complainant is residing at Shenoy Nagar house and he would submit that they would not interfere with the defacto complainant in using the house till her life time.

7. Heard the learned counsel for the petitioners, the learned Government Advocate (Criminal Side) for the respondent, the learned counsel



for the intervenor and perused the entire materials available on record.

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8. From a perusal of the records, it is seen that the defacto complainant has executed a settlement deed on 01.06.2007 and she has also executed certain rectification deeds subsequently. Thereafter, the defacto complainant and her daughters have filed two separate suits before the VII Additional City Civil Court, which are pending in O.S.Nos.7241 of 2022 and 6337 of 2023 respectively.

9. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. 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 is made ready, before the learned **Metropolitan Magistrate, Egmore, Chennai**, on condition that the petitioners shall execute a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand Only) each** with two sureties, each 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



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photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday 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 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 abscond, a fresh FIR can be registered under Section Section 269 of B.N.S.

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