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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

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THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.O.P.No.27258 of 2023

S.Bharathi

... Petitioner/Defacto Complainant

Vs.

1.Janakiraman

2.The State Rep. by
The Inspector of Police,
(Anti Land Grabbing Cell)
Central Crime Branch, Vepery, Chennai.
(Crime No.227 of 2023)

... Respondents

Prayer: Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the bail granted to the 1st respondent/3rd Accused by setting aside the order dated 09.11.2023, passed in Crl.M.P.No.28547 of 2023 in Crime No.227 of 2023, on the file of the 2nd respondent police.

For Petitioner : Mr.A.Ashok Kumar

For Respondents

For R1 : Mr.M.Velmurugan

For R2 : Mr.R.Vinothraja
Government Advocate (Crl. Side)



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ORDER

This petition has been filed seeking to cancel the bail granted to the 3rd accused by the learned Principal Sessions Judge, Chennai, by an order dated 09.11.2023 in CrI.M.P.No.28547 of 2023.

2.It must be stated that the 2nd respondent had registered FIR in Crime No.227 of 2023 for the offences under Sections 420, 465, 466, 467, 468, 471 and 120(B) of IPC. The 1st respondent/3rd accused had been remanded to judicial custody on 30.10.2023.

3.The entire issue surrounds about purchase and sale of property and whether the 1st respondent/3rd accused was a bonafide purchaser or not.

4.The learned counsel for the petitioner states that counter affidavit had been filed before the Sessions Court by the Investigating Officer raising very strong objections. A perusal of the order granting bail shows that the objections has been reduced in writing in paragraph No.3 wherein, the learned Principal Sessions Judge, had also noted about the objections raised



and had also specifically pointed out that the absconding accused were not yet arrested and that the amount had not been recovered and the investigation is at a nascent stage. But however, in the next paragraph in No.4, the learned Sessions Judge, had stated that according to the City Public Prosecutor, the 3rd accused is a bonafide purchaser and that the City Public Prosecutor had not raised any serious objection for grant of bail to the petitioner.

5.The grant of bail or denial of bail is a discretion vested with the Court. Unless that discretion is exercised perversely, the Court cannot sit in appeal over such an order. Bail can be cancelled if the accused having benefit of grant of bail, had violated any of the conditions imposed. There are no such complaints made. It is the nature of the order which is now complained about. It must also be kept in mind that while examining issues relating to grant of bail or anticipatory bail, the Court cannot convert itself into an extortion Court and direct collection of money payable by either side to the other side. The stipulations mentioned under Section 439 of Cr.P.C., alone have to be kept in mind and the conditions therein are, to examine whether there are possible grounds for the accused to abscond from judicial process, whether he would commit the offence again and whether he would



co-operate during the course of investigation or whether he would influence the witnesses who are called upon by the prosecution. None of those complaints are now alleged by the learned counsel for the petitioner, who only seeks a re-examination of the facts as considered by the learned Sessions Judge. I am afraid that they may not be grounds for cancellation of bail. It is stated that investigation is still continuing. Let the petitioner concentrate on tendering admissible and credible evidence during the course of trial to enable the prosecution to establish the case beyond reasonable doubt.

6.In view of the above reasons, this Criminal Original Petition is dismissed.

20.03.2024

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C.V.KARTHIKEYAN.J.,

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