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Crl.O.P.No.29138 of 2023

**Crl.O.P.No.29138 of 2023**  
**and Crl.M.P.No.918 of 2024**

**C.V.KARTHIKEYAN, J.**

The petitioner/A2 seeks anticipatory bail in Crime No.31 of 2023 registered by the respondent Police for the offences punishable under Sections 406, 409, 420 r/w 34 and 506(i) of IPC with respect to occurrence took place between 17.04.2021 to 31.01.2023.

2. It is stated that the complaint had been lodged on 11.05.2023 and FIR had been registered on 20.11.2023.

3. The learned Senior Counsel on behalf of the petitioner stated that the petitioner/A2 is currently Panchayat President of Oonamancheri Village, Vandalur Taluk, Chengelpattu District and therefore claims that the petitioner holds a very elevated position and therefore, there cannot be allegation of any criminal act as against the said petitioner. But unfortunately, he is before this Court only as an accused and not as President of any Panchayat. It is stated that A1 who is a brother of this petitioner and A3 who is a close relative of this petitioner have a direct interest in a



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company called S.M.Groups. These two petitioners are running that particular company and the third accused is the Chief Executive Officer of that particular company. It may not be a company in the sense of being registered under the Companies Act, but to the common people in that particular area, it had been projected as run by responsible persons including the petitioner who holds the laudable position as President of the Panchayat.

4. It is also stated that the accused persons including this petitioner had invited the villagers in that particular area, whom the learned Senior Counsel termed as "these people", to a project had been started in the name "Amaze Nandavanam" at Indalur Village, Sithamur Union, Acharapakkam, Chengalpattu District. It is a scheme which had been formed by the accused person.

5. The learned Senior Counsel for the petitioner stated that it was the third accused who was responsible for the entire scheme. But, the underlying presence of this petitioner as Panchayat President was always there. This petitioner had held out that in view of his position as President Panchayat the villagers can invest in that particular scheme. The investment was to deposit



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amounts with promise to pay interest and an agreement had also been entered into which is termed as a sale-cum-rental agreement without description of the property. The villagers did not get any sale of lands. They did not get any land on rental basis or on lease basis. They have handed over their money to be invested. It is also claimed that the first accused had returned back a sum Rs.6.75 lakhs out of the sum of Rs.9/- lakhs and that this petitioner would always ready to return back the balance amount of Rs.2.25 lakhs. It is to be noted that it is not the quantum which is important but the intention to cheat an ordinary person out of his valuable money which forms essence of the offence of cheating.

6. There is one further aspect which has to be stated even before proceeding further with the facts of the case. That is the claim by the learned Senior Counsel that Notice under Section 41(A) of Cr.P.C. was not at all issued to the petitioner herein and that if issued, he would appear and if it is issued today, he would appear tomorrow and cooperate with the investigation agency.



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7. The records have been perused by the learned Counsel for the Government Advocate(Crl. Side) who stated that notice had been issued to the family members of the petitioner herein. That is a minor aspect. The crux of the issue is that after registration of the FIR, the first and second accused had mortgaged the title documents of the lands which come under Amaze Nandavanam to Repco Bank in two separate mortgage deeds and had received a sum of Rs.15/- crores each under the two mortgages.

8. It is the very specific statement made by the learned counsel for the intervenor that such mortgage had been done only to prevent the investigation agency from taking control of the title deeds of the land covered under Amaze Nandavanam.

9. To continue with the narration of facts, the learned Senior Counsel for the petitioner stated that A3 and A1 alone were involved in whatever offences which were stated by the defacto complainant and this petitioner, as A2, has nothing to do with the entire issue and there is no mention about this petitioner in the FIR except in the last portion, wherein it had been stated that



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the respondent should help the defacto complainant in getting back the amount invested from this petitioner and also from the other accused.

10. The learned counsel for the defacto complainant however stated that the First Information Report and the complaint which had been lodged necessitating registration of the First Information Report have given only a sketch of the agony the defacto complainant had undergone, having deposited amounts with the accused person. It had been stated that there is no possibility of the land either being sold to the defacto complainant or even being leased out to the defacto complainant, since the original title deeds had been mortgaged with the Repco Bank for valuable amount of Rs.15/- crores in two separate mortgage deeds.

11. A status report had also been filed on behalf of the respondent and the learned Senior Counsel for the petitioner also took advantage of the statement made in the status report wherein, the list of complainants and addresses had been given. It is seen that there are as many as 19 complaints lodged against the accused person. Each one of them had stated that they had invested sums ranging from Rs.3 lakhs to Rs.20 lakhs. There were also



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repayments made which had been indicated, and the learned Senior Counsel stated that substantial amounts had been returned back to each one of the complainants, and therefore stated that the petitioner is prepared, not to repay the balance amount, but to provide security for such repayment. That statement does not take the petitioner anywhere, since the basis for lodging of the complaint and the registration of the First Information Report is not readiness to repay, but, initial willingness to receive money from the defacto complainant without any intention to repay. There was no land available and even if land was available, it is now mortgaged with Repco bank. All the three accused will have to stand answerable for the complaint lodged. There cannot be separation in the overt acts as against the accused person herein.

12. Incidentally, A1 and A2 are brothers and A3 is the Chief Executive Officer of the Company called S.M. Group which promoted "Amaze Nandavanam". They had offered lands for sale-cum-lease. They have invited deposits with promise to repay with interest. The lands are now mortgaged with the Repco bank and if the amount of mortgage is not repaid, the lands could even be sanctioned.



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13. The investigation will have to be done further on the entire issue.

The accused are answerable for the allegations made in the First Information Report. It is specifically stated that in the status report that the custodial interrogation is required to determine the actual amounts misappropriated by the petitioner.

14. The learned counsel for the defacto complainant had also produced certain documents wherein it is seen that in two documents, which were sale deeds executed by the first and second accused in favour of one Jeyakumar and in favour of one Yogalakshmi, an amount of Rs.6.50/- lakhs by way of cheque had been paid to this petitioner herein. It would indicate direct nexus with the entire scheme by this petitioner.

15. In view of this specific stand taken by the respondent, that further investigation will have to be done this petition stands dismissed.



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16. The learned Senior Counsel for the petitioner after the order had been dictated, wanted this Court to examine paragraph 7 of the status report and for the convenience of the learned Senior Counsel, paragraph 7 is extracted in entirety:

*"It is submit that the registration of the FIR had issued 41(A) Cr.P.C. Notice on 24.05.2023, 29.05.2023, 21.11.2023 and 05.01.2024 preliminary enquired only the Petitioner/Accused A-1. After he did not co-operate interrogation of the case and absconded."*

17. The statements do not alter the decision taken. I am not inclined to grant anticipatory bail to the petitioner. This Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

**30.01.2024**

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30.01.2024