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Crl OP No.28943 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.28943 of 2024

Vijayasekar

... Petitioner

Versus

State rep by
Inspector of Police,
Pallikaranai Police Station,
Chennai District.
Crime No.715 of 2024.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Bharatiya Nyaya Sanhita, 2023, to enlarge the petitioner on bail in the event of his arrest in connection with Cr.No.715 of 2024 on the file of the respondent police.

For petitioner : Mr.B.Manibharathi

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 417 and 420 of IPC in Crime No.715 of 2024, seeks anticipatory bail.



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2. The case of the prosecution is that the petitioner taking advantage of the fact that the defacto complainant had gone to Australia for studies had induced the defacto complainant's mother to execute a power of attorney on the representation that he would take care of the properties, that by misusing the power of attorney executed a sale deed in favour of one Sathiyaraj and obtained a sale consideration of Rs.28,40,000/- and had not accounted for the same either to the defacto complainant or her mother. Hence, the case.

3. Learned counsel appearing for the petitioner would submit that the petitioner was taking care of the properties and had spent huge sums for maintaining the property, that in any case, the case is borne out by records; and that the custodial interrogation of the petitioner is not required for the purpose of investigation. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police reiterated the prosecution case and on instructions submitted that the defacto complainant's mother had executed the power of attorney and that she was deceived to execute the power of attorney as their the sale deed was executed without her knowledge.



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5. The learned counsel appearing for the Intervenor however submit that the the signature was obtained by deception and therefore the power of attorney is not valid and the petitioner has cheated the defacto complainant to the tune of Rs.28,00,000/-.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

7. Admittedly, the power of attorney executed by the power of attorney by the defacto complainant's mother is not forged. The question as to whether the power of attorney was obtained by deception is a matter for trial. The case is borne out by records. Hence, this Court is of the view that the custodial interrogation of the petitioner is not required. this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, 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 is made ready, before the **Judicial Magistrate No.II, Alandur**, on condition that the petitioner shall execute a 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



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Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial;

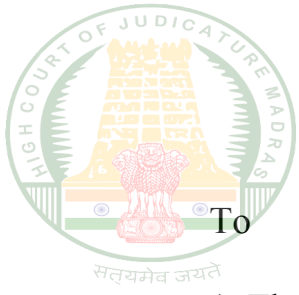
[c] the petitioner shall not abscond either during investigation or trial.

[d] 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 is 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];**

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

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Vv



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1. The Judicial Magistrate No.II,
Alandur
2. The Inspector of Police,
Pallikaranai Police Station,
Chennai District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

Vv

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