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Crl.O.P.No.32381 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.02.2025

PRONOUNCED ON : 03.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.32381 of 2024

Mumthaj ... Petitioner/single accused

Vs.

State Rep. by the Inspector of Police,
Hosur Town Police Station,
Krishnagiri District. ... Respondent/Complainant

Vijayakumar ... Defacto complainant

[Permitted to intervene vide order of this Court [SMJ] dated 03.03.2025 made in Crl.M.P.No.267 of 2025 in Crl.OP.No.32381 of 2024]

Prayer: Criminal Original Petition filed under Section 482 of BNSS, 2023, to enlarge the petitioner on bail in the event of his arrest in Crime No.460 of 2024 on the file of the respondent police.

For Petitioner : Mr.R.Thiagarajan, Sr. Counsel

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

For Intervenor : Mr.C.T.Murugappan



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ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 463, 464, 465, 468, 471 and 420 of IPC in Crime No.460 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner claiming to be the owner of a property in S.No.56/1 to the extent of 5.90 ½ acres at Rangopandit Agraharam, Hosur Taluk, Krishnagiri District, had agreed to sell the property to the defacto complainant, who along with his partners were doing real estate business in the name and style of GOKUL HILLS; that the sale consideration fixed for property was Rs.2,25,00,000/-; that the defacto complainant paid an advance of Rs.10 Lakhs by way of two cheques and a sale agreement was entered into on 06.06.2022; that the defacto complainant had issued post dated cheques for a sum of Rs.2,15,00,000/-; that since the petitioner demanded further sum of Rs.10,00,000/-, for her urgent needs, the defacto complainant had transferred Rs.10,00,000/- by RTGS on 24.01.2023; that thereafter, the petitioner did not respond to the requests of the defacto complainant for registration of the sale deed; that the defacto complainant found that one Radhakrishnan was cleaning the



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land and on further enquiry, it was revealed that the land originally belonged to one Ramaswamy Iyengar and his legal heirs; that the petitioner had claimed title based on forged patta; that she had cheated the defacto complainant a sum of Rs.20 Lakhs; and thus, committed the aforesaid offences.

3. Mr.Thiyagarajan, learned senior counsel appearing for the petitioner would submit that the allegations are false; that the reading of the FIR would show that the defacto complainant was aware of the fact that a writ petition was filed by the petitioner before this Court in WP No.24379 of 2021, challenging the cancellation of patta; and the understanding was that the sale deed would be executed after the disposal of the writ petition; that even after the disposal of the writ petition on 02.06.2023 in favour of the petitioner, the defacto complainant had not paid the balance sale consideration; and that on the contrary, the defacto complainant had purchased the very same property for a nominal sale consideration from the parties who had illegally claimed title over the subject property.

(ii) The learned senior counsel would further submit that the petitioner had also filed a Contempt Petition before this Court for disobedience of the order



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passed in WP No.24379 of 2021 dated 02.06.2023; that in any case, the dispute is essentially civil in nature; and that the offence of cheating is not made and in any case there is no necessity for custodial interrogation. Hence, he sought for anticipatory bail to the petitioner.

4. The learned counsel for the defacto complainant would submit that the petitioner had obtained a patta by making false averments; that by falsely claiming title over the property, she had received the consideration of Rs.20 Lakhs; that the earlier counsel for the petitioner had undertaken to pay the advance amount received and on receipt of the advance amount, the defacto complainant undertook to withdraw the complaint; and that the petitioner has failed to keep up the promise. Hence, he opposed to the grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police, while opposing the anticipatory bail petition, reiterated the prosecution case and submitted that the allegation essentially is that the petitioner had received an advance of Rs.20 Lakhs by falsely claiming title over the property and thus committed the aforesaid offences.



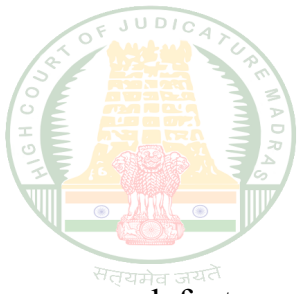
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6. Mr.Thiyagarajan, learned senior counsel in response would submit that the earlier counsel had made a representation without consulting the petitioner; that in view of the order dated 02.06.2023 passed by this Court in WP No.24379 of 2021, it is the defacto complainant who has committed the breach of the sale agreement and that in any case, since the allegations are essentially civil in nature, custodial interrogation is not required.

7. Heard the learned senior counsel for the petitioner, the learned Government Advocate (Crl. Side) appearing for the respondent police and the learned counsel appearing for the Intervenor/defacto complainant

8. Admittedly, the agreement between the petitioner and the defacto complainant was entered into on 07.12.2022. It is also not in dispute that the petitioner had received Rs.20 Lakhs as advance and the defacto complainant was aware of the fact that the petitioner had filed WP No.24379 of 2021 before this Court and was pending at that time. It is also not in dispute that this Court had set aside the order cancelling the patta in favour of the petitioner and the contempt petition has been filed by the petitioner against the authorities and against the



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defacto complainant.

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9. Considering the aforesaid facts, since the allegations are essentially civil in nature and relates to breach of a sale agreement, this Court is of the considered view that the custodial interrogation is not required for the purpose of investigation and therefore, is inclined to grant anticipatory bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days from the date on which the order copy is made ready, before the learned **Judicial Magistrate No.II, Hosur**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 said Magistrate, on further condition that:

- [a] 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;



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- [b] the petitioner shall report before the respondent Police, as and when required for interrogation;
- [c] the petitioner shall not abscond either during investigation or trial;
- [d] the petitioner shall not tamper with evidence or witness 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 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*** reported in [(2005)AIR SCW 5560];
- [f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

03.03.2025

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To

1.The Judicial Magistrate No.II, Hosur.



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- 2.The Inspector of Police, Hosur Town Police Station, Krishnagiri District.
- 3.The Public Prosecutor, High Court, Madras



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SUNDER MOHAN., J.

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Pre-delivery order
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