BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.03.2025	Pronounced on : 08.05.2025

CORAM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.MP(MD).No.345 of 2025
in
CRL.OP(MD).No.13663 of 2024

Jayanth Rhenius ... Petitioner / Defacto Complainant

Vs.

1.The State of Tamil Nadu rep by
The Inspector of Police,
City Crime Branch Police Station,
Tirunelveli District.
(Crime No.12 of 2024) ... 1st Respondent / Complainant

2.Elamchezhian @ Elanchezhian

3.Sony ... 2nd & 3rd Respondent / A2 & A4

PRAYER :- Criminal Miscellaneous Petition filed under Section 483(2) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to cancel the pre-arrest bail granted to the second and third respondents in CRL.OP(MD).No.13663 of 2024 dated 30.08.2024 by this Court in Crime No.12 of 2024 on the file of the 1st respondent-police.

For Petitioner : M/s.N.Kavitha Rameshwar, Advocate.

For R1 : Mr.K.Sanjai Gandhi, Government Advocate

(Criminal Side)

For R2 & R3 : Mr.R.John Sathyan, Senior Advocate for Mr.S.Vellaichamy Advocate.

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner on 06.01.2025 under Section 483(2) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to cancel the pre-arrest bail granted to the second and third respondents in CRL.OP(MD).No.13663 of 2024 dated 30.08.2024 by this Court in Crime No.12 of 2024 on the file of the 1st respondent-police.

2. The petitioner herein is the defacto complainant and the second and third respondents are Accused Nos.2 and 4.

3. The facts of the case is the that the defacto complainant had instructed one Mr.Dhanapal, who is his authorized representative, to lodge a complaint before the 1st respondent police. In the complaint, the defacto complainant has stated that he is the owner of certain properties situated at Palayamkottai in VM Chathiram Town, bearing Town Survey Nos. 3/2B and 3/4, which have now been converted as Sivanthipatti Road, Town Survey No.Ward BS, Block 6, measuring a total extent of 1 acre and 96.5 cents. The defacto complainant submits that he had executed a Power of Attorney on 16.11.2010 in favour of the 1st accused, Mr.B.Dhanasingh, in respect

of the aforementioned properties, since he is the brother-in-law of Mr.Dhanapal, a close family friend of the defacto complainant. As the defacto complainant is an aged person and unable to travel to Tirunelveli, the said Power of Attorney was granted for convenience. Thereafter, the 1st accused entered into a sale agreement with the 2nd accused, Mr.Elanchezhian (the 2nd respondent herein), and subsequently executed a sale deed in his favour with respect to a portion of the above-mentioned properties in the years 2018 and 2021. Since the 2nd respondent/accused failed to pay the sale consideration properly, the defacto complainant had specifically instructed the 1st accused not to proceed with the sale of the remaining portion of the property in favour of the 2nd respondent/accused. Further, the defacto complainant had instructed the said Mr.Dhanapal to revoke the Power of Attorney executed in favour of the 1st accused as well as the sale agreement. Accordingly, the Power of Attorney was cancelled by way of a registered document bearing Doc.No.155/2024 dated 03.08.2024, on the file of the Sub-Registrar Office, Mylapore, Chennai. Subsequently, the petitioner / defacto complainant came to know that the 1st accused, in collusion with the other accused, had executed a sale deed in favour of the 4th accused, who is none other than the wife of the 2nd respondent/accused, by forging a life certificate as if it had been signed by the defacto complainant. Hence, the defacto complainant lodged a complaint before the 1st respondent police, based on which an FIR was registered against the 2nd and 4th accused, along with two named and other unknown accused persons, for offences punishable under Sections 316(5), 318(4), 336(2), 336 (3), and 340(2) of the Bharatiya Nyaya Sanhita, 2023, in Crime No. 12 of 2024 dated 05.08.2024.

4. After the registration of the FIR, the 1st accused moved an application for anticipatory bail before this Court in Crl.O.P.(MD).No.13007 of 2024. During the hearing of the said petition, it was specifically asserted by the learned counsel for the 1st accused that the signature found on the life certificate was not forged and that the principal, namely the defacto complainant, had signed the same. Based on the said representation made by the counsel for the 1st accused, this Court was pleased to grant anticipatory bail to the 1st accused, subject to certain conditions. The order of this Court dated 13.08.2024 reads as follows:-

> "6.In view thereof, since an assertion is made that the certificate belongs to that of the Jeyanth Rhenuius only, at this stage, since the other allegations would only part on civil dispute, this Court is inclined to enlarge the petitioner on anticipatory bail.
>
> 7.However, the Investigating Officer shall take the specimen signature of the petitioner, the said Dhanapal, de facto complainant and the said Jeyanth Rhenuius and also send the impugned life certificate to the Forensic Lab Department, to firstly find out whether the certificate is

forged or not and secondly who forged the signature. If it is found that the signature is forged by the petitioner herein, the anticipatory bail will be cancelled and the petitioner will be taken into custody.

8.With the above conditions, the petitioner is enlarged on anticipatory bail with certain conditions.

9.Accordingly, the 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 made ready, before the learned Judicial Magistrate No.I, Tirunelveli, 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation. It is made clear that no relaxation of the condition for the said period will be entertained by this court.

[c] Once the petitioner appears before the Investigating Officer, the Investigating Officer, shall take the samples of the petitioner,

defacto complainant and also the original principal Mr.Jeyanth Rhenuius and promptly send the same for verification for forensic examination and the lab concerned also concerning the fact that the matter is pending investigation, can expedite the process of sending the expert opinion.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

[f] 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 [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC."

5. Subsequently, the Investigating Officer obtained specimen signatures of both the defacto complainant and the 1st accused and sent the same to the Forensic Science Department for examination. Based on the expert analysis, the investigation revealed that the life certificate was forged and had been fabricated by the 1st accused with an intention to commit the offence. It is also relevant to point out that this Court, while granting anticipatory bail, made a specific observation in

paragraph No. 7 of its order dated 13.08.2024, which is as follows:-

> "If it is found that the signature is forged by the petitioner herein, the anticipatory bail will be cancelled and the petitioner will be taken into custody."

The defacto complainant thereafter filed a petition seeking cancellation of the anticipatory bail granted to the 1st accused in Crl.O.P. (MD) No.13007 of 2024.

6. Subsequently, the 2nd and 4th accused, who are arrayed as the Respondent Nos.2 and 3 herein, filed an application seeking anticipatory bail in Crl.O.P. (MD) No.13663 of 2024. This Court, by order dated 30.08.2024, was pleased to pass the following order, which reads as follows:

> "6.Considering the argument made on behalf of the learned Senior counsel for the petitioners and considering the fact that the first accused power of attorney was in force as on date of the sale deed which is executed in favor of the petitioners herein and considering the fact that the sale consideration was transferred by them to the power of attorney agent online by way of banking transaction, and at present, there is no any proven allegation so as to suspect it is only the accused 2 and 4, who have either forged the revenue record or the life certificate, with the same condition that the orders of granting anticipatory bail would be subject to revisit after the further investigation, I am inclined to grant anticipatory bail with certain conditions.

7.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 made ready, before the learned Judicial Magistrate No.1, Tirunelveli, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 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.

[b] the petitioners shall report before the respondent Police, daily at 10.30 a.m., for a period of three weeks and thereafter, as and when required for interrogation.

[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 petitioners 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 absconds, a fresh FIR can be registered under Section 229A IPC.

8.It will open for the respondent police to seize the life certificate and also the original documents belonging to the petitioners herein for the purpose of investigation only."

7. Thereafter, the defacto complainant filed Crl.M.P.(MD) No.11490 of 2024 in Crl.O.P.(MD) No.13007 of 2024, seeking cancellation of the anticipatory bail granted in favour of the 1st accused. It was submitted that custodial interrogation of the 1st accused was essential in the interest of justice, as he had played a major role in collusion with the other accused in the fabrication of a forged document—an act constituting a very serious offence. The said petition, after hearing both sides, was allowed by this Court on 30.10.2024 and the anticipatory bail granted to the 1st accused – Dhanasingh was cancelled.

8. Subsequently, the 1st accused preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No.16659 of 2024. However, the Hon'ble Supreme Court refused to entertain the petition for Special Leave to Appeal and passed the following order:-

"2. We are not persuaded to exercise our discretion in favour of the petitioner in so far as grant of anticipatory bail is concerned.

3. If after arrest the petitioner herein prays for regular bail the court concerned shall look into the same on its own merits in accordance with law without being influenced by the fact that this court declined to grant anticipatory bail."

9. M/s.N.Kavitha Rameshwar, the learned counsel for the petitioner submitted that the act of the accused persons in presenting fraudulent and forged documents before the Registration Department, with the intention of illegally grabbing the property of an innocent senior citizen, is punishable under law. Even as per the sale agreement dated November 24, 2014, the transaction was only between the 1st and 2nd accused. However, the 1st accused subsequently executed a sale deed in favour of the 4th accused, who is the wife of the 2nd accused. This sequence of events clearly reveals the criminal intent and collusion among the accused persons. The accused have committed a large-scale fraud in illegally acquiring the land, and hence, their custodial interrogation is essential to uncover the modus operandi behind the fraudulent transaction and to facilitate recovery of the property. She further submitted that the multitude of circumstances surrounding the execution of the sale deeds dated 15.07.2024, wherein the 1st accused sold the property to the 4th accused (wife of the 2nd accused) for a fraction of the market value, raise serious doubts about the bona fide of the transaction and the apparent collusion among the parties. The mere fact that the sale consideration was transferred from Respondent

Nos.2 and 3 to the 1st accused cannot, by itself, establish their innocence or qualify them as bona fide purchasers. Notably, the property, valued at approximately Rs.18 Crores, was sold for a mere Rs.5 Crores—an aspect that must be carefully considered in assessing the culpability of the 2nd and 4th accused. Accordingly, she prays to cancel the pre-arrrest bail granted to the second and third respondents in CRL.OP(MD).No.13663 of 2024 dated 30.08.2024.

10. Mr. K. Sanjai Gandhi, the learned Government Advocate (Criminal Side) appearing for the 1st respondent-police, submitted that the doctor who issued the life certificate has already been examined. The doctor stated that one Shahul Hameed brought a person claiming to be the owner, and based on that representation, he issued the certificate. Further submitted that the investigation, particularly the Forensic Science Laboratory (FSL) report, reveals that the life certificate produced by the power agent (A1) before the Sub-Registrar, at the time of registering the sale deeds in favour of the third respondent herein, is a forged one.

11. Per contra, Mr.R.John Sathyan, the learned Senior Counsel appearing for Mr.S.Vellaichamy, learned counsel for the Respondent Nos.2 and 3, submitted that the Respondent no.2 entered into a sale agreement with the 1st accused vide agreement dated November 24, 2014, and thereafter executed the sale deed in favour the Respondent Nos.2 and 3. The Respondent No.3 is none other than wife of the

Respondent No.2. The Respondent Nos.2 and 3 have no role in obtaining the life certificate. They are bona fide purchasers for value. There is no reason to suspect the life certificate, as the principal (seller) is alive. Assuming that the power agent (Accused No.1) did not pay the sale consideration received from Respondent Nos.2 and 3, the proper remedy would be to file a suit for rendition of accounts. Furthermore, the learned Senior Counsel submitted that this is an internal dispute between the principal and the agent, in which Respondent Nos.2 and 3 have no role. He further emphasized that Respondent Nos.2 and 3 are bona fide purchasers for value.

12. This Court has considered the submissions made on either side and perused all the materials available on record.

13. As far as Respondent Nos.2 and 3 are concerned, they purchased the property from the power of attorney holder of the petitioner. The petitioner has admitted the execution of the power of attorney deed dated November 16, 2010 in favour of Dhanasingh (Accused No.1). If the power of attorney holder failed to pay the sale consideration to the petitioner, the petitioner ought to have filed a suit for rendition of accounts or sought other appropriate remedies against the power agent. As far as the allegation of forgery of the life certificate is concerned, the Respondent Nos.2 and 3 have no role in obtaining the alleged life certificate. Further, there is no

reason to suspect the life certificate as the principal is alive on the date of execution of two sale deeds. Therefore, this Court is of the view that the observations made in Crl.O.P.(MD) No.13007 of 2024 dated 13.08.2024 would not cause prejudice to Respondent Nos.2 and 3. The contention of the prosecution that the life certificate is forged is a matter to be adjudicated during trial. Likewise, the submission of the petitioner/de facto complainant that the sale deeds were executed for a value below the market rate and that the accused persons thereby cheated him is also an issue that can only be determined during the course of trial. It is to be noted that the above view is recorded only for the limited purpose of deciding this petition alone. This view, in any way, would not cause any prejudice to the rights of both parties during the trial. Considering the facts and circumstances, this Court is of the view that custodial interrogation of the Respondent Nos.2 and 3 are not necessary in this case. Hence, this petition lacks merit and is liable to be dismissed. Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-
08/05/2025

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/05/2025
Sub-Assistant Registrar (C.S.-I/ II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE JUDICIAL MAGISTRATE NO.I,TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE, CITY CRIME BRANCH POLICE STATION, TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.345 of 2025
IN
CRL OP(MD) No.13663 of 2024
Date :08/05/2025

NBF/SAR/09.05.2025 14P/5C

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