

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE, AT MAYO HALL, BENGALURU (CCH.20)**

Present:

Sri.D.S.Vijaya Kumar, B.Sc, LL.B.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru

Dated this the 9th day of June, 2020

Crl.Misc.No.25284/2020

Petitioner:-

1. Mujeer Ahmed
S/o Late Syed Mahmood,
Aged about 40 years,
R/at No.91, 4th Cross,
William's Town, Behind
Benson Town,
Bengaluru-46

2. Syed Shabeer Ahmed
S/o Late Mahomood,
Aged about 44 years,
R/at No.91, 4th Cross,
William's Town, Behind
Benson Town,
Bengaluru-46

[By Y. Law Associates-Adv]

Vs.

Respondent:-

State by K.G.Halli Police Station,
Bengaluru City

[By Public prosecutor]

ORDER

Petitioner Nos. 1 and 2 have filed this petition u/s 438 of the CRPC praying for granting an order of Anticipatory bail in Crime No.74/2020 of respondent Police station for the offences punishable u/s 468, 471, 419, 420 and 34 of IPC.

2. Brief facts of the petition are as below:-

Petitioners are lawful and bona-fide purchasers of the subject immovable property. They are innocents and no incident has taken place as alleged. Petitioners are law abiding citizens and they are ready to abide by any condition and furnish surety. If they are arrested, they being innocent of the alleged offences, they will be subjected to harassment and humiliation. They have

been falsely implicated in the case. The dispute is civil in nature. Thus they have sought for allowing the petition.

3. The prosecution has filed objection reiterating FIR allegations and has contended that the investigation is still under progress. If the petitioners are granted bail they may use their influence and destroy evidence. They may not co-operate in investigation. They may abscond from prayer. The IO has not submitted report and CD despite calling for the same by the prosecution. On the said grounds the prosecution has sought for rejecting the bail petition.

4. Heard arguments.

5. In the circumstances the following points arise for consideration:-

1. Point No.1: Whether the petitioner Nos.2 to 4 are entitled to an order of Anticipatory bail as sought for?

2. Point No.2: What Order?

6. My findings on the above points are as follows:-

Point No.1:- **In the Affirmative.**

Point No.2:- As per final order

R E A S O N S

7. Point No.1:- Petitioners have produced copies of FIR, plaint in OS NO.25623/2019, copy of sale deed dtd.05.07.2018 for perusal. FIR reveals that the informant has lodged complaint alleging that her elder sister namely Tahasin Anis had entered into an agreement

with one Noorunnisa Khan for purchasing a site bearing Khata No.648 for Rs.40,00,000/- and had paid Rs.5,00,000/- as advance sale consideration and the sale agreement has been registered. But Noorunnisa Khan who is accused No.1 taking advantage of the fact that the petitioners aforesaid sister is staying abroad, has executed a deed of cancellation by impersonation of the informant sister and registering the same and thereby canceled the agreement in her favor. There after she has sold the said site in favor of accused No.2 and 3/Petitioners 1 and 2. On the said allegations the FIR is registered against accused No.1 to 3 for the aforesaid offences.

On perusing the records and also copy of plaint mentioned supra, it can be seen that the petitioners are

only the purchasers of the site. There is no material forthcoming against them that they had prior knowledge about the first accused canceling the sale agreement in favor of the elder sister of the informant by impersonation. There is no allegation that the petitioners who are the purchasers have participated in impersonation for canceling the registered sale agreement in favor of the elder sister of the informant. Main allegations are against accused No.1. So far as the petitioners are concerned the dispute is prima facie civil in nature. Petitioners allege that they are actually victims in the transactions. Already the informant's elder sister has instituted a suit in OS 25623/2019 for declaration and injunction. In this circumstance I am of opinion that by imposing appropriate conditions, the petitioners may be

granted an order of Anticipatory bail.

8. Point No.2: For above reasons I proceed to pass the following.

ORDER

Petition is allowed in respect of petitioner Nos. 1 and 2/ Accused No. and 3 by granting an order of Anticipatory bail in respect of crime No.74/2020 of the respondent Police Station on the following conditions.

1. Petitioners shall give attendance before the SHO/IO on every alternate Sunday for three months starting from the coming Sunday.
2. They shall not cause any threat to prosecution

witnesses nor tamper with the prosecution evidence.

3. They shall not commit any offences again.

4. They shall co-operate in the investigation of the case.

Subject to above conditions if the respondent Police arrest the petitioner Nos.2 to 4 in the above crime number of their station, it is ordered that they shall be released forthwith, if they furnish personal bond for Rs.50,000/- each and one surety in likesum.

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(Dictated to the Stenographer, transcribed by him and computerized and then corrected and pronounced by me in the open court on this the **9th day of June, 2020**)

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(D.S.VIJAYA KUMAR)

XXVI Addl.CC & SJ, Mayo Hall Unit
Bengaluru.