

Crl.O.P.No.11158 of 2015**R.SUBBIAH, J.**

Apprehending arrest at the hands of the respondent-police, in respect of the alleged commission of offences punishable under Sections 451, 427, 506(i) IPC, in Crime No.1333 of 2015, the petitioners have approached this Court seeking the relief of anticipatory bail under Section 438 of the Code of Criminal Procedure.

2.The petitioners herein have been arrayed as accused Nos.1 to 3 respectively in this case. The case of the prosecution, in brief, is as follows:-

The complaint was lodged by one Tr.Veerasekar stating that the petitioners 1 & 2 herein had approached the defacto-complainant to sell their house situated at Old Door No.7, New Door No.8, Lady Desika Raod, Alwarpet, Chennai. Believing their words, the defacto-complainant had purchased the house for Rs.3.5 crores. On 05.02.2014, the defacto-complainant had entered into an agreement with the 2nd petitioner and he had also paid a sum of Rs.1 crore as advance. On 28.04.2014, the defacto-complainant paid a sum of Rs.2.5 crore and purchased the house vide Document No.1225/2014, dated 28.04.2015. Thereafter, the defacto-complainant and his family members have been in possession and enjoyment of the said house. While so, the petitioners Nos.1 & 2 have

approached the defacto-complainant frequently and demanded further money of the said house. On 17.02.2015, the petitioners Nos.1 to 5 have trespassed into the defacto-complainant's house and demanded further money and damaged his house and also threatened the defacto-complainant with dire consequence. Hence, the defacto-complainant lodged a complaint before the respondent police station, based on the petition enquiry.

3.The learned counsel for the petitioners submitted that the 1st petitioner is the husband of the 2nd petitioner. The 3rd petitioner is the friend of the 1st petitioner. The 1st petitioner and the defacto-complainant are real estate business partners and they were purchasing the properties and selling the same. One of the properties purchased by them is the property at Old Door No.7, Door No.8, Door No.9 New Door No.16/A, Lady Desika Road, Alwarpet, Chennai-4 and the said property was purchased jointly in the name of the 1st petitioner as well as the defacto-complainant. Thereafter, the said property was sold in favour of the 2nd petitioner and she is the owner of the ground floor of the said building. In respect of the said property, on 05.03.2014, a sale agreement was entered into between the 2nd petitioner and the defacto-complainant for a sum of Rs.8 crores and for the purpose of banking loan transaction, two other agreements were entered into for a sum of Rs.4 crores and a sum of Rs.3.5 crores respectively. On

the same day, a sum of Rs.1 crores was paid by the defacto-complainant by way of RTGS and another sum of Rs.1 crore was paid by way of cash on the same day. Since the full sale consideration was not paid by the defacto-complainant, the 2nd petitioner is in possession of the property and the possession was not handed over to the defacto-complainant. While situation stood thus, the period mentioned in the original agreement for Rs.8 crores was due to expire on 04.09.2014. Since the defacto-complainant tried to forcibly evict the 2nd petitioner from the property, a complaint was lodged by the 2nd petitioner as against the defacto-complainant and he obtained bail in respect of the complaint lodged against him. Thereafter, the defacto-complainant has filed the present complaint as against the petitioners falsely alleging as if the possession of the subject property was handed over to the defacto-complainant by the petitioners and when he was out of station, the petitioners forcibly took the possession of the subject property. The learned counsel appearing for the petitioners submitted that the allegations made in the present complaint are all totally false. In order to prove the same, the learned counsel appearing for the petitioner has also invited the attention of this Court to the bail petition filed by the defacto-complainant in respect of the complaint lodged by the 2nd petitioner against him and submitted that in the said bail petition, the defacto-complainant has alleged that the petitioners herein are in possession of the subject property illegally. Thus,

the learned counsel for the petitioners submitted that the 2nd petitioner is in possession of the subject property and with false allegations, the present complaint has been lodged by the defacto-complainant as if the petitioners forcibly took the possession of the subject property. Thus, the learned counsel for the petitioners prayed for grant of anticipatory bail to the petitioners.

4. Per contra, the learned counsel for the intervener submitted that actually possession was given to the defacto-complainant on payment of Rs.3.5 crores and when the defacto-complainant was out of station on the date of occurrence, the petitioners herein forcibly entered into the ground floor of the building and took possession of the same. The learned counsel for the intervener would further submit that already a civil suit has been filed by the 2nd petitioner and but, no injunction was granted in the said suit. Thus, the learned counsel for the intervener opposed to grant anticipatory bail to the petitioners.

5. I have heard the learned Government Advocate (Crl.Side) also.

6. Keeping the submission made on either side, I have carefully gone through the entire materials available on record. So far as the present

anticipatory bail petition is concerned, it is not necessary to go into the fact as to who is in possession of the property. The question that has to be considered in the present anticipatory bail petition is, *whether the custodial interrogation of the petitioners is necessary or not.* The entire case rests upon the documents, which have already come into existence. Considering the facts and circumstance of the case, I am of the opinion that the custodial interrogation of the petitioners is absolutely not necessary in this case, since the entire investigation has to be conducted only based on the documents, which have already come into existence. Therefore, I am of the view that anticipatory bail could be granted to the petitioners by imposing stringent conditions.

7. Accordingly, the petitioners are directed to be released on bail, in the event of their arrest or on their appearance before the concerned Court, on each of them executing 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 learned XVIII Metropolitan Magistrate, Saidapet, Chennai, and on further condition that the petitioners shall report before the respondent-police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required.

8.The petitioners shall appear before the concerned Court within a period of 15 days from the date of receipt of a copy of this order, failing which anticipatory bail shall stand automatically cancelled.

16.07.2015

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R.SUBBIAH, J.

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Pre-delivery order

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