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Crl.O.P.Nos.15754 of 2022

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G.K.ILANTHIRAIYAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 109, 120B, 420 of IPC in Crime No.7 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's elder son secured 1026 marks in 12th standard exam and the second accused approached the de-facto complaint and promised to secure MBBS seat in prominent college. Further, the second accused demanded Rs.50,00,000/- for securing MBBS seat and took the de-facto complainant to Pondicherry University and introduced the petitioner and Rs.23,00,000/- was made to the petitioner and in addition to that Rs.87647/- was made in favour of Medical Counselling, which was handed over to the petitioner. On failure to secure MBBS seat, Rs.18,00,000/- was repaid to the defacto complainant. Subsequently, next day the petitioner informed the defacto complainant that a seat has been confirmed and took back the said amount but failed to secure MBBS



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seat. Hence, this complaint.

4. The learned counsel for the petitioner submitted that the petitioner is innocent and he has not committed any offence. He further submitted that the petitioner is ready to furnish surety in the event of releasing him on bail and shall abide by any condition imposed by this Court. Therefore, he prays to grant anticipatory bail to the petitioner.

5. The learned Additional Public Prosecutor submitted that the petitioner along with other accused received huge sums of money from the defacto complainant by way of cash and Demand Draft in order to secure medical seat and cheated. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6. According to the case of the prosecution, insofar the defacto complainant paid Rs.23 Lakhs to the accused to get medical seat in the year 2016. Further on perusal of the documents produced by the petitioner revealed that from 24.10.2016 onwards till 26.05.2017, the



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defacto complainant paid a sum of Rs.23 lakhs to the first accused/petitioner herein through bank transfer on various dates. Therefore it cannot be said that the said amount was paid to get medical seat. Further even according to the defacto complainant, the first accused repaid a sum of Rs.18,00,000/- and again the said amount was taken by the first accused. The learned counsel for the first accused also submitted that the petitioner is ready and willing to pay a said amount within a stipulated time fixed by this Court.

7. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner on condition that the petitioner shall deposit a sum of Rs.8,75,000/- (Rupees Eight Lakhs Seventy Five Thousand only) by way of Demand Draft, in favour of the defacto complainant, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the petitioner is ordered to be released on bail with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in



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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 Chief Judicial Magistrate, Salem, 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 deposit a sum of Rs.8,75,000/- (Rupees Eight Lakhs Seventy Five Thousand only) by way of Demand Draft, in favour of the defacto complainant, within a period of six weeks from the date of receipt of a copy of this order.

[c] 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.



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[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.

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