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CrI.O.P.No.16718 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 406 and 420 IPC in Crime No.814 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that the property belong to the second accused who is sister of the petitioner, entered into a sale agreement with the defacto complainant for the total sale consideration of Rs.52 lakhs and as per the defacto complainant as advance he paid a sum of Rs.18 lakhs from his friends' bank account to the petitioner bank account however the said fact is baseless and incorrect. After receipt of the initial payment from the defacto complainant, the second accused instead of selling the property to the defacto complainant, sole the property to the third party came to about such a sale, the defacto complainant demanded to refund the initial payment made to the second accused refused to return the said amount. Hence the complaint.



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3. The learned counsel for the petitioner submitted that the entire sale consideration and the payments were dealt between A2 and A3 since the owner of the property is the A2 and it is not possible to receive the advance amount by the petitioner. He further submitted that the petitioner has been falsely implicated in this case without any evidence. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner and along with other accused received advance amount from the defacto complainant in order to sell the property and they refused to pay the same and cheated the defacto complainant. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is seen that there are totally three accused in this case, the petitioner is arrayed as first accused. The second and third accused have entered into an agreement for sale with the defacto complainant and they received the said amount as advance. Thereafter, they executed sale deed



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in favour of the other person and thereby cheated the defacto complainant.

In so far as the allegations as against the petitioner are concerned, the friend of defacto complainant deposited a sum of Rs.10 lakhs in favour of the petitioner herein. Further, the learned counsel for the petitioner submitted that the petitioner never entered into sale agreement to sell the said property and due to some other business transaction, the defacto complainant's friend deposited Rs.10 lakhs in favour of the petitioner. That apart, the crime of the year is 2019 and further the learned counsel for the petitioner submitted that the petitioner is ready and willing to produce the titled deed as security.

6. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioner is directed to deposit original title deeds (stand in the name of the petitioner or in the name of his friends and relatives) not below to the worth of Rs.15,00,000/- in favour of the Crime No.814 of 2019 and on such deposit, the petitioner is ordered to be



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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 5th Metropolitan Magistrate Court, Egmore, 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 Morning at 10.30 a.m for a period of two weeks thereafter as and when required for interrogation.

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

[d] the petitioner 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



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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]**.

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

19.07.2022

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