



Crl.O.P.No. 17237 of 2022

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**G.K.ILANTHIRAIYAN, J.**

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 420 of IPC in Crime No.07 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant, who is doing construction and road work contractor in the name and style of Rajee Construction. He was inquired about the land to buy for business purpose. In the year 2021, the petitioner has agreed to sell his land, in respect of survey No.113/2 at Enusonai Village, for Rs.37,00,000/- and both had entered an unregistered sale agreement dated 24.09.2021 and the defacto complainant was paid an advance amount of Rs.5,00,000/- thereafter he was paid an additional amount of Rs.10,00,000/-. But the petitioner has failed to execute the sale deed in favour of the defacto complainant and threatened him with dire consequences. Hence, the complaint.



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3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainant entered into an unregistered sale agreement for construction. Thereafter, the petitioner received a sum of Rs.15,00,000/- from the defacto complainant as advance. Neither the petitioner registered the sale deed nor returned the money. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. The learned counsel for the intervenor/defacto complainant submitted that after receipt of substantial amount as advance, the petitioner refused to register the sale deed in their favour. The petitioner had intension to cheat the defacto complainant and therefore the custodial interrogation of the petitioners is very much required and he prays to dismiss the petition.



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6. Admittedly, the petitioner received a sum of Rs.15,00,000/- as an advance to sell the property. Subsequently, he failed to execute the sale deed. Therefore, there is a civil dispute pending between the petitioner and the defacto complainant. The defacto complainant ought to have filed a specific performance as against the petitioner in the manner known to law.

7. Taking note of the facts and circumstances, the custodial interrogation of the petitioner is not required, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. 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 is made ready, before the learned Judicial Magistrate No.II, Krishnagiri, 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:



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[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 for a period of three weeks and 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 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.

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