



Crl.O.P.No.19613 of 2022

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Crl.OP.No.19817 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioners who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 34 of IPC in Crime No.121 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a senior citizen. The first petitioner/A1 along with his father/A2 have approached the defacto complainant and expressed their willingness to sell their family property for a total sale consideration of Rs.2,59,00,000/- and the defacto complainant has paid Rs.83,36,396/- through bank transaction and the remaining Rs.1,75,63,604/- was paid by way of cash during the period from 2014 to 2018. However, the accused persons/petitioners have neither executed the sale deed nor repaid the amount and also threatened the petitioners with dire consequences. Hence, the complaint.



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3. The learned counsel for the petitioner would submit that during the year 2014, the first petitioner approached the defacto complainant and offered to sell the family property belonged to his parents for a sale consideration of Rs.2,59,00,000/-, out of which, the defacto complainant has paid Rs.83,36,396/- to the petitioner and his father's account from the year 2014 to 2018 and paid the balance amount by way of cash. But, there was no document to show that the amount has been transferred for the purchase of the property. Admittedly, there was a money transaction between the parties and his son have repaid the entire amount borrowed from the defacto complainant and the loan was discharged during 2018 itself. He would further submit that the second petitioner is a senior citizen and he is undergoing dialysis on daily basis due to kidney failure, for which, the petitioners have also furnished the medical records of the petitioner. Hence, he prays to grant anticipatory bail the petitioners.

4. The learned counsel for the Intervenor would submit that The first petitioner/A1 along with his father/A2 have approached the



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defacto complainant and expressed their willingness to sell their family property for a total sale consideration of Rs.2,59,00,000/- and the defacto complainant has paid Rs.83,36,396/- through bank transaction and the remaining Rs.1,75,63,604/- was paid by way of cash during the period from 2014 to 2018. However, the accused persons/petitioners have neither executed the sale deed nor repaid the amount and also threatened the petitioners with dire consequences. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl.Side) would submit that the accused persons/petitioners have executed a Letter of Undertaking dated 06.07.2021 to execute the sale deed within three months, failing which, to repay the entire amount with interest, but so far, no amount has been repaid. Even after receipt of notice under Section 41A of Cr.P.C., the accused persons did not appear for enquiry. He would further submit that the amount involved in this case is Rs.2,59,00,000/-. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.



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6. It is seen from the records that the defacto complainant has paid a sum of Rs.83,36,399/- to the petitioners through cheque. Further sum of Rs.1,75,63,604/- has been paid by way of cash during the period from 2014 to 2018. According to the defacto complainant to purchase the property owned by the petitioners, the said amount was paid to them from the year 2014-2018. However, no agreement for sale was executed between them and there was no proof to show that the defacto complainant has paid such a huge amount without any execution of sale agreement for sale while purchasing the property. It is also stated that the said amount has been paid from the year 2014-2018. whereas the complaint lodged only in the year 2021. The learned counsel would also produced statement of accounts of the petitioner. A perusal of the same, revealed that from the year 2014 there was periodically paid by the petitioner to the tune of Rs.1,15,000/-, it shows that there was some money transaction between them and in order to repay the said amount a sum of Rs.1,15,000/- was credited into the account of the defacto complainant every month. Subsequently, the learned counsel for petitioner also submit that in the year 2019, the petitioner received the



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letter of undertaking and also executed pronotes .Therefore, it is clear that there was money transaction between them.

7. Considering the above fact and circumstances of the case, the custodial interrogation of the petitioners does not require in this case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the ***learned Special Metropolitan Magistrate, CCB CBCID, Special Court, Egmore, Chennai*** on condition that the petitioners shall execute separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only)each 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 first petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation and the second petitioner shall report before the respondent police as and when required for interrogation.

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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners are 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]**.



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

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Vv

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