



Crl.O.P.No.21309 of 2022

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A.D.JAGADISH CHANDIRA,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 IPC, in Crime No.Not Known of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the G.B.J.Hotesl Pvt. Ltd., is that the petitioner/accused had received an amount of Rs.10 lakhs towards the supply of refined sunflower cooking oil and he had supplied oil to the tune of Rs.1,72,750/- by way of two consignments and thereafter has failed to supply oil for the balance amount. Thereby, cheated the defacto complainant. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is engaged in the business of supply of cooking oil and it is true that the petitioner had entered in an agreement of G.B.J.Hotels Pvt. Ltd., for supply of oil and he has received Rs.10 lakhs as an advance. In



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the meanwhile, the said G.B.J.Hotels ran into loss and it is liable to pay money to several persons. Pursuant to the same, Indian Overseas Bank, one of the major creditor had filed insolvency application before the National Company Law Tribunal, Division Bench-I, Chennai, in CP(IB)/279/CHE/2021, and the entire assets are attached and the matter has been referred for settlement.

4. The learned counsel for the petitioner would further submit that if the petitioner makes payment to G.B.J Hotels Pvt., Ltd., at that time, he will be put to hardship. The petitioner has also filed an affidavit before this Court undertaking to deposit the amount either before the National Company Law Tribunal or as and when any demand is made. He further submitted that the defacto complainant suppressing the proceedings before the National Company Law Tribunal, has given the complaint. Based on which, the police harassing the petitioner to settle the amount directly to the defacto complainant. He would further submit that the case of civil in nature has been given a criminal colour and even as per the complaint there is no averment that the petitioner induced or



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had intention to cheat the petitioner from the inception of the transaction and thereby, he would seek for anticipatory bail.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner in the guise of supplying cooking oil had received a sum of Rs.10 lakhs from the defacto complainant and after supplying partial quantity has failed to supply the balance and also refused to return the amount. He further submit that now only the enquiry is pending. Therefore, he opposed to grant anticipatory bail to the petitioner.

6. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the



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learned **Judicial Magistrate No.II, Coimbatore**, on condition that the petitioner shall execute a separate 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 at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c] the respondent police shall complete the enquiry within a period of three weeks. In the event of the respondent registering the case, the petitioner is at liberty to approach the Court, seeking for anticipatory bail.

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



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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