



Crl.O.P.No.21787 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 420, 491 and 506(i) of IPC, in Crime No.51 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant *Amsaveni* is that 1st petitioner entered into an agreement of sale of his property and received an amount of Rs.20 lakhs suppressing the said fact that the property was mortgaged with the Bank. The further allegation is what when the de-facto complainant has asked about the return of the advance amount, the petitioners are stated to have abused her and also intimidated her. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners and the *de-facto* complainant have entered into an agreement of sale by the property, belong to them. Even at the time of agreement, the petitioners have categorically disclosed that the property was



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mortgaged with the Bank and the petitioners have also given an undertaking that they would clear the mortgage and thereafter, register the sale deed. And, only after knowledge of the mortgage, the *de-facto* complainant had paid the amount of Rs.20 lakhs to them. But for reasons best known, the *de-facto* complainant had asked them to return the advance amount of Rs.20 lakhs and since the petitioners were unable to repay the said amount at that moment, a false has been given.

4.He further submitted that, as on date, they have cleared the mortgage and the property is without any encumbrance and if the *de-facto* complainant wishes, the petitioners are ready to execute the sale deed immediately. The *de-facto* complainant without resorting to civil remedy of filing a suit for specific performance or for seeking for return of advance amount has given a false complaint in order to recover the money by police action. Thereby, he seeks anticipatory bail.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners suppressing the fact that the property was mortgaged had entered into a sale agreement with the de-



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facto complainant and have received a sum of Rs.20 lakhs. However, he vehemently opposed to grant anticipatory bail to the petitioners.

6.The learned counsel for the intervenor would submit that the de-facto complainant does not want the property now and she wants only the money and he would submit that the value of the property has also reduced by now.

7.In reply, the learned counsel for the petitioners would submit that the petitioners are ready to execute the sale deed even within a weeks' time and that as on date, the petitioners have also cleared the bank loan & received the NOC from the bank. He would also submit that a case of civil nature has been given criminal colour and the de-facto complainant is attempting to settle the civil matter by threat of arrest.

8.Heard the learned counsel. Taking into consideration the facts and circumstances of the case and also the fact that the petitioners are ready to execute the sale deed, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



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9. 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 Judicial Magistrate, Gudiyatham**, on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 petitioners 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 1st petitioner shall report before the respondent police for a period of four weeks and thereafter, on every Saturday at 10.30 a.m., until further orders and the 2nd petitioner shall report before the respondent police for a



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period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

[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 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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