



Crl.O.P.No.22452 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 Section 379 of IPC in Crime No.299 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the petitioners who are the owners of the premises have dismantled the cell phone tower of the defacto complainant without their knowldge and had committed theft of the dismantled items. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are the owners of the premises. Originally a lease deed was entered into between the petitioners and the AIRCEL Limited. Thereafter AIRCEL became defunct and that they did not pay the rent. Subsequently, the representative of the company came and informed to the petitioners that the Company name has been changed to Chennai Network Infrastructure Limited and a fresh lease deed was entered. Even thereafter, the company of the defacto complainant did not pay the rent.



Crl.O.P.No.22452 of 2022

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When the petitioner was demanding the rent, the representative of the Company had came to the premises and they have dismantled the tower and taken it away. The petitioners had asked for rent, but they have refused to pay the rent. Thereafter, the petitioners sent a legal notice through his counsel on 04.05.2022. Subsequently, the petitioners have also given a complaint to the respondent Police based on which, an enquiry was conducted in C.S.R.No.484 of 2022. While things were so, the defacto complainant inorder to evade payment of rent has given a false complaint on 2.9.2022, alleging that the petitioner has dismantled the tower. He would further submit that the 2nd petitioner is son of the first petitioner and he is not aware of the persons who have dismantled. The petitioner was under the impression that the persons who have dismantled the cell phone tower are the representatives of the defacto complainant company. The learned counsel for the petitioner would submit that the petitioner has not committed any offence and it is the defacto complainant who is liable to pay the rent running to the tune of Rs.3,60,000/- . However, he would submit that without prejudice, the petitioner is also prepared to deposit original title deeds of immovable



Crl.O.P.No.22452 of 2022

WEB COPY

property worth Rs.10 lakhs to show his bonafide.

4.Per contra, the learned Government Advocate would submit that the petitioner is owner of the premises. There was a dispute with regard to the payment of rent whereas the defacto complainant without the knowldge of the defacto complainant's Company has dismantled the cell phone towers and had taken the materials away. He would further submit that the value of the goods is Rs.40 lakhs. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioners.

5.Taking into consideration the facts of the case and the submissions made by the learned Counsel and also of the fact that the legal notice has been issued as early as on 04.05.2022 and the complaint has been given only on 25.07.2022, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6.Accordingly, the petitioners are ordered to be released on bail



Crl.O.P.No.22452 of 2022

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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 No.IV, Salem, on condition that each of the petitioners shall execute separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties 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 first petitioner shall deposit the original title deeds of immovable property worth about Rs.10 lakhs, belonging to himself or relatives or friends.

[c] the first petitioner shall report before the respondent police daily at 10.30 a.m for a period



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CrI.O.P.No.22452 of 2022

of four weeks and thereafter every Saturday at 10.30 a.m., until further orders. The second petitioner shall report before the respondent Polie as and when required for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners 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 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]**;

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.22452 of 2022

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

22.09.2022

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Crl.O.P.No.22452 of 2022