Crl.O.P.No.22848 of 2022

Dr.G.JAYACHANDRAN.J.,

Heard the learned counsel for the petitioner, the learned Government Advocate (Criminal side) and the learned counsel appearing for the *de facto* complainant as intervenor.

2. This is the second anticipatory bail petition filed by the accused, for the offence relating to the cheating of nearly Rs.45,00,000/- pretending as if he is a genuine purchaser of cashew from the *de facto* complainant. The earlier bail petition was dismissed on 11.03.2022 but petitioner was not secured and hence the second anticipatory bail has been moved.

3. The learned counsel for the petitioner contended that the petitioner himself was a victim to the fraud committed by one Akbar Bhasha. The cashew was purchased from the *de facto* complainant and delivered to M/s.Greenland Trading at Kerala, who has absconded after taking delivery. Since the petitioner, as the Managing Director of V-3 Elite Forte Private Limited, had placed the order with the *de facto* complainant and paid advance of Rs.5,00,000/- for the goods, he has

been arrayed as the accused in the complaint.

4. The learned Government Advocate (Criminal side) earlier submitted that the petitioner is absconding and not subjected himself for investigation and therefore, anticipatory bail should not be granted. Recording the same, this Court directed the petitioner to appear before the Investigating Officer and subject himself for interrogation. Accordingly the petitioner has appeared before the Investigating Officer and given his statement, which is almost akin to the averments made in the anticipatory bail petition.

5. However, the criminal intention of cheating the *de facto* complainant been pointed out by the learned Government Advocate by saying that the cheque for Rs.42,72,600/-, which was drawn from Axis Bank in favour of the defacto complainant for the goods sold, was signed by petitioner and on presentation of the cheque, it was returned on account of signature differs. Therefore, the intention of cheating from the inception is proved.

6. In the course of the investigation, the account opening form along with the other documents submitted for opening the account and the cheque, which was signed and given by this petitioner to the *de facto* complainant, were received and verified. From the documents, it is found that the account, which is in the name of V-3 Elite Forte Private Limited, was opened by its Director and he is the authorised signatory. While so this cheque has been signed by this petitioner and handed over to the *de facto* complainant for goods sold to him.

7. From the perusal of records, it clearly indicates that the petitioner cannot be the victim of the crime but accomplished the crime by giving the cheque and making the *de facto* complainant to believe as if he is the Managing Director and authorised signatory of the company V-3 Elite Forte Private Limited. The goods of worth Rs.45,72,000/- has been delivered by the *de facto* complainant and the same has not be recovered till date due to absconding.

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8. In view of the above, this Criminal Original Petition for anticipatory bail is dismissed.

28.09.2022

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