



Crl.OP.No.23886 of 2022

A.D.JAGADISH CHANDIRA, J.

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The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 448, 323, 294B, 427 and 506(2) of IPC in Crime No.137 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that he is the builder and that the accused had booked a plot under him and further allegation is that without paying the entire consideration, the accused had illegally trespassed into the property and taken unauthorized possession of the same which was later recovered from the accused. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the case of civil dispute has given a criminal colour. He would further submit that the petitioner had applied for loan and the loan was sanctioned by the bank and the contract is between the bank and the defacto complainant, whereas a false complaint has been given. He would further submit that the civil suits are pending between the parties. He would further submit that the petitioner has filed a affidavit of undertaking before this Court that he will not take the possession of the property illegally and he will take the possession after



adhering to due process of law. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that without paying the entire amount had committed criminal trespass and taken unauthorized possession of the property. He would submit that the case has been registered and thereafter the possession has been secured and handed over to the defacto complainant. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Mr.R.Vivekananthan, the learned counsel appearing for Intervenor/defacto complainant would submit that the petitioner had sought for a loan from the bank and thereafter he has not repaid the amount and the builder/the intervenor also had not handed over the possession to the defacto complainant as per the construction agreement, whereas, the accused had illegally attempted to take possession of the property and it was thwarted by the defacto complainant. Hence he would vehemently oppose to grant anticipatory bail to the petitioner.

6. Heard the submissions made by both counsel and also perused the materials available on record. The petitioner had filed an affidavit of



undertaking stating that he will not attempt to illegally take possession and that he will adhere to due process of law.

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7. Taking into consideration the facts and the submissions and that civil litigations are pending between the parties and the petitioner also filed a affidavit of undertaking that the will not take possession illegally, this Court is inclined to grant anticipatory bail with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the *learned Judicial Magistrate-I, Alandur* on condition that the petitioner 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 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 every



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

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

[d] the petitioner 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 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]**.

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

9. The affidavit of undertaking filed before this Court shall form part and parcel of the Court records.

01.11.2022

Vv

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