Crl.O.P.No.24719 of 2022

A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420, 506(ii) IPC in Crime No.154 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Yeshwanth is that the petitioner is running a hotel business and that while he was studying engineering, he became a friend of one Diwakar, son of Ravi Sundaram and thereafter, they became family friends. While being so, during the year 2016, the said Diwakar introduced the petitioner/accused as his family Auditor. The allegation against the petitioner is that he induced the defacto complainant, stating that if he invest money in online trading business, he would earn a lot of money Believing the words of the petitioner, the defacto complainant handed over an amount of Rs.38,00,000/- by cash to the petitioner. Thereafter, when the defacto complainant asked for return of money given to the petitioner, he gave two cheques for a sum of Rs.20,00,000/- and Rs.13,00,000/- drawn on Andhra Bank, Saligramam Branch and had requested the defacto complainant to present the cheques. While so, on

22.07.2022, the petitioner had called him over phone and threatened him stating that he should not present the cheque for collection and also that he will kidnap him and endanger his family members. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is a Chartered Accountant. It is true that the petitioner had borrowed an amount of Rs.52,50,000/- from one Ravi Sundaram over a period of 10 years, starting from 2010 towards medical expenses incurred by his parents and for his IVF medical treatment. The lendings were done by the said Ravi Sundaram only in cash and thereafter, the petitioner had repaid the principal amount with interest of Rs.1,55,69,000/- in cash and Rs.55,84,000/- through bank transfers as per the direction of the said Ravi Sundaram. Therefore, a total sum of Rs.2,11,53,000/- was settled against his borrowings of Rs.52,50,000/-. However, the said Ravi Sundaram did not return the cheques and the pro-notes, given as security for the loans borrowed by the petitioner and demanded exorbitant amounts. Thereby, the petitioner had given a complaint against the said Ravi Sundaram on 03.03.2022 before the Commissioner of Police, Greater Chennai, Vepery, Chennai. Whereas, without conducting any enquiry, the complaint was closed as civil in nature. While so, the

petitioner had received a phone call from the Assistant Commissioner of Police, Valasaravakkam and he was directed to appear for enquiry on 26.08.2022 with a threatening tone. Immediately, the petitioner lodged a complaint against the said Ravi Sundaram on 09.09.2022 to the Commissioner of Police through online as well as in-person and the said complaint had been referred to the very same Assistant Commissioner of Police for enquiry and the petitioner had appeared for enquiry on 12.09.2022 and 21.09.2022. During the enquiry on both day, the said Ravi Sundaram was also available in the Office of the Assistant Commissioner of Police. Both of them coerced the petitioner to settle further amount of Rs.1,00,00,000/- and if not so, threatened that a false case would be foisted against the petitioner. Thereafter, the present false complaint has been filed against the petitioner through the defacto complainant, who is none other than the friend and classmate of the son of the said Ravi Sundaram.

4. The learned counsel would submit that it is a case where money dispute is attempted to be settled through arm-twisting under the threat of arrest with the help of police. He reiterated that the petitioner as on date is not liable to pay anything against his borrowings and despite

that he has been harassed and tortured. He would further submit that after closure of the earlier complaint lodged against the said Ravi Sundaram, the petitioner has filed an application under Section 156(3) Cr.P.C., before the learned Chief Metropolitan Magistrate, Chennai and the same is also pending. Thereby, he prays to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner, under the guise of investing money in online trading business had induced the defacto complainant and received an amount of Rs.38,00,000/- and cheated him. He would submit that the petitioner towards return of the amount had handed over two cheques drawn on Andhra Bank for a sum of Rs.20,00,000/- and Rs.13,00,000/- and also threatened the defacto complainant not to present the same for collection. He would further submit that the first complaint given by the petitioner was closed as mistake of fact on 12.04.2022 and submitted that in respect of the second complaint, investigation is pending. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

6. Mr.Aswin Prasana, learned counsel appearing for the defacto complainant/Intervenor would submit that the petitioner has cheated the defacto complainant by inducing him to part with an amount of Rs.38,00,000/- promising him that he will invest the same in share market and online trading and give back double the invested amount. The petitioner had also given two post-dated cheques and also threatened the defacto complainant not to present the cheques for collection. He would further submit that the defacto complainant is yet to present the cheque for collection. Hence, he opposed for grant of anticipatory bail to the petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case and the submissions and also the documents filed along with the files, this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. 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 No.I, Poonamallee, Chennai 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 daily at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

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

27.10.2022

Anu

A.D.JAGADISH CHANDIRA, J.

Anu

Crl.O.P.No.24719 of 2022

27.10.2022

(1/2)