



Crl.O.P.No.24999 of 2022

Crl.O.P.No.24999 of 2022

A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of IPC, in Crime No.445 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant Sithaiyan is that the petitioner/accused on the promise of purchasing the land, which is situated at Thattaravur, Vepillai Village, Kaadaiyampatti Taluk, Salem District, had taken an amount of Rs.6,00,000/- from the de facto complainant. However, later he failed to execute the Sale Deed and also refused to return the money already received. But later on insistence, the petitioner/accused had returned the amount of Rs.2,75,000/- in three instalments, but refused to pay the balance amount of Rs.3,25,000/-. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that a case of



Crl.O.P.No.24999 of 2022

money dispute/commercial transaction between the parties have been falsely projected as a case of refusal of executing the Sale Deed. He would further submit that even taking into consideration the entire averments in the complaint, the de facto complainant can only file a Civil Suit for recovery of money and it is not the case where the petitioner/accused had induced the de facto complainant. He would further submit that the petitioner/accused has paid a sum of Rs.60,000/- and the balance amount of Rs.2,15,000/- only remains to be paid. He would further submit that the petitioner undertakes to repay the said remaining amount to the de facto complainant within a period of six months, by making a sum of Rs.1,15,000/- within a period of eight weeks from today and the balance amount of Rs.1,00,000/- within a period of eight weeks thereafter to the credit of the crime number and he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner/accused on the promise of purchasing the land, which is situated at Thattaravur, Vepillai Village,



CrI.O.P.No.24999 of 2022

WEB COPY

Kaadaiyampatti Taluk, Salem District, had taken an amount of Rs.6,00,000/- from him but thereafter he failed to execute the Sale Deed and also refused to return the money and thereafter the petitioner/accused had returned the amount of Rs.2,75,000/- in three instalments and had refused to pay the balance amount of Rs.3,25,000/- and cheated the de facto complainant. Hence, he opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record including the FIR.

6. Taking into consideration the facts and circumstances of the case, the submissions of either side and also taking note of the fact that the petitioner undertakes to deposit a sum of Rs.2,15,000/- by paying a sum of Rs.1,15,000/- within a period of eight weeks from today and the balance amount of Rs.1,00,000/- within a period of eight weeks thereafter to the credit of Crime No.445 of 2022, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



Crl.O.P.No.24999 of 2022

WEB COPY

7. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.1,15,000/- (Rupees One Lakh Fifteen Thousand only) to the credit of Crime No.445 of 2022, within a period of eight weeks from today. The petitioner/accused is also directed to deposit the balance amount of Rs.1,00,000/- (Rupees One Lakh Only) to the credit of Crime No.445 of 2022, within a period of eight weeks thereafter.

8. On such deposit of Rs.1,15,000/- within eight weeks from today, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the **learned Judicial Magistrate, Omalur, Salem District** 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:



Crl.O.P.No.24999 of 2022

[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 deposit a sum of Rs.1,15,000/- (Rupees One Lakh Fifteen Thousand only) to the credit of Crime No.445 of 2022, before the concerned Magistrate, within a period of eight weeks from today and the balance amount of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.445 of 2022, before the concerned Magistrate, within a period of eight weeks thereafter.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[d] the petitioner shall appear before the respondent police everyday at 10.30 a.m., until further orders.

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

[f] the petitioner shall not abscond either during investigation or trial.



Crl.O.P.No.24999 of 2022

[g] 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]**.

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

9. In any event, if the petitioner fails to comply with the undertaking, the de facto complainant is entitled to file an application for cancellation of bail.

16.11.2022

jas/arb



WEB COPY



Crl.O.P.No.24999 of 2022

A.D.JAGADISH CHANDIRA, J.

jas/arb

Crl.O.P.No.24999 of 2022

16.11.2022