



Crl.O.P.No.25505 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 Sections 294(b), 406, 420 IPC, in Crime No.27 of 2022, on the file of the respondent, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Babu is that he had agreed to purchase the land belonging to the petitioners and that on 01.12.2013, the defacto complainant along with his friend one Bullet Kumar met the accused and the rate was fixed at Rs.6 Lakhs per Acre and the defacto complainant had paid a sum of Rs.1,20,00,000/- as advance in the presence of one Balaji and one Murugan and the accused had agreed to execute the sale deed within 19 months. Believing the accused, the defacto complainant and his friend have also spent Rs.50 Lakhs towards development and plotting of the land. In total, they have paid a sum of Rs.1,70,00,000/- to the petitioners, whereas the petitioners have not executed the sale deed.



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When the defacto complainant asked for return of amounts, the accused had issued a post-dated cheque for Rs.1,20,00,000/- drawn on Union Bank of India bearing Reg.No.005612 of Mylapore Branch and agreed to pay the balance amount in one month and that when the cheque was presented for collection, it was returned stating as "account closed". Thereafter, when the defacto complainant asked the petitioner and his wife one Kalpana, they have stated that they are in the ADMK party and that they have threatened him through one Karunas and Defender Dhamodharan of Mukkulathor Pulipadai Party has given a false complaint against him. While so, on 03.12.2020, the said Bullet Kumar passed away and on 29.03.2022, when the defacto complainant met the accused at Ambature Estate and explaining his bad financial status and asked for return of money, the accused have abused and threatened the defacto complainant with dire consequences. Further both the accused humiliated and abused and attempted to assault the *de-facto* complainant. Hence, the case.



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3. The learned counsel for the petitioners would submit that it is a case of business transaction. A civil dispute has been attempted to be converted into a criminal case. He would submit that an earlier complaint with the very same allegations was given in the Nolambur Police Station and a case in Crime No.196 of 2018 was registered against the first petitioner alone. Therefore, the first petitioner approached this Court for anticipatory bail in Crl.O.P.No.9491 of 2018 and this Court had granted anticipatory bail to the first petitioner on 18.04.2018. Suppressing the same, the very same defacto complainant had preferred the present complaint before the Avadi Police Station making exaggerated allegation as if the petitioner along with his wife and some other accused had threatened him. Even assuming that the agreement is stated to have been made in the year 2013 and if the defacto complainant has really paid the amount, he would have either filed a suit for specific performance for executing the sale deed or for recovery/refund of amount paid. However, now with the help of the police, the defacto complainant is attempting to recover the money under the threat of arrest. Without admitting the counsel would submit that it is a time barred claim. Therefore, he prays



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4. Per contra, the learned Additional Public Prosecutor for the respondent police would submit that the case in Crime No.196 of 2018 is pending and the averments in respect of the agreement and the lands are one and the same. He would submit that the petitioners during 2020 along with former MLA and some Advocates who are members of Mukkulathor Pulipadai Party had threatened the defacto complainant and that on 29.03.2022, when the defacto complainant had gone and met the petitioners, they have abused him and also threatened him that they will send henchman and kill them. Thereby, the case has been registered. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Mr.R.Thirumoorthi, learned counsel appearing for the defacto complainant/Intervenor would submit that believing the petitioner, the defacto complainant had paid an amount of Rs.1,20,00,000/- towards purchase of land and in addition, he had also



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spent about Rs.50,00,000/- for developing the land and plotting out the land, whereas the accused have cheated him and they have also threatened through henchman and on 29.03.2022, when the defacto complainant gone and asked for money, the accused have abused him and also threatened to do away him. Therefore, he vehemently opposed to grant anticipatory bail to the petitioners.

6. At this juncture, the learned counsel for the petitioners would submit that the petitioners, to show their bona fides are ready and willing to deposit original title deeds of immovable property to the tune of 25 Lakhs jointly to the credit of Crime No.27 of 2022.

7. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and the counsel for the intervenor and perused the materials available on record.

8. From a perusal of the records, it is seen that the defacto complainant had earlier given a complaint in respect of the land



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transactions before the Nolambur Police and a case in Crime No.196 of 2018 has been registered. In that case, the first petitioner was only shown as an accused and the 1st petitioner had earlier approached this Court in CrI.O.P.No.9491 of 2018 and he has been granted anticipatory bail by this Court on 18.04.2018. However now suppressing the earlier complaint and the grant of anticipatory bail, a fresh complaint has been preferred with additional allegations.

9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also taking note of the fact that the petitioners are ready to deposit immovable property either belonging to the petitioners or friends or relatives to the value of 25 Lakhs to the credit of Cr.No.27 of 2022 within a period of two weeks from the date of receipt of a copy of this order, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen



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days from the date on which the order copy made ready, before the learned Judicial Magistrate-I, Ponnammalle on condition that each of the petitioners shall execute a 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 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 petitioners shall deposit the original title deed of immovable property (either belonging to themselves, friends or relatives) worth about Rs.25,00,000/- (Rupees Twenty Five Lakhs) to the credit of Crime No.27 of 2022 before the concerned Magistrate, within a period of two weeks from the date on which the order copy made ready.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.



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[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness 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]***;

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

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