



Crl.O.P.No.26303 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 420 IPC, in Crime No.34 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant Subramaniyan is that he is a CPWD Contractor doing LD full work and that he is a member of Builder Association of India – Puducherry centre for the past 20 years. Further allegation is that the accused/Kumareson, M/s. Ganesh Electricals, Chennai Proprietor was entrusted with the contract of conversion of Low Tension over-head line into UG cables system in Narambai, Pannithittu and Pillaiyarkuppam in Puducherry Coastal Area under CDRRP scheme Package No.14 and that he had given sub contract for an amount of Rs.13,25,97,548/- to the *de-facto* complainant and the *de-facto* complainant had made an payment of Rs.81,10,563/- as per the work Order as security deposit. Thereafter, an agreement was entered into and the accused had promised to sent the



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original signed agreement through courier and he also agreed that he shall make the payment within time. Believing the accused, the *de-facto* complainant had purchased the materials and completed the work. The accused had paid part payment and had committed criminal breach of trust and cheated the *de-facto* complainant to the tune of Rs.7,64,95,923/-. Further allegation is that the accused had also cheated another contractor one Murugavel of M/s. Venus Electricals in the same manner. Hence, the case.

3. The learned Senior Counsel appearing for the petitioner would submit that the petitioner is the proprietor of M/S Ganesh Electricals and they are engaged in the business of doing contract work of laying electrical cables with more than 25 years of experience. He would submit that the petitioner had been promptly making payments to the *de-facto* complainant, however, the *de-facto* complainant did not do the work properly, whereas, the labourers employed by the *de-facto* complainant committed theft of the materials supplied by the Puducherry Government and they had also made a false claim against the petitioner's



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Company to the Puducherry Government. He would further submit that the petitioner had filed a complaint dated 22.07.2019 before the Kirumambakkam Police Station against the *de-facto* complainant in respect of non return of materials and during such enquiry, the *de-facto* complainant had given a letter dated 07.10.2020 to the authorities agreeing to withdraw the complaints against the petitioner. However, since the *de-facto* complainant did not keep up by his promise, the petitioner had filed a suit in O.S.No.557 of 2021 before the District Court at Tiruvallur for recovery of amount of Rs.2,39,52,046/- and the respondent has also filed a written statement along with the counter claim of Rs.5,76,01,180/- and the suit is pending. Mean while abusing his contacts in Puducherry Police, the *de-facto* complainant had given a false complaint against the petitioner, based on which the petitioner was harassed and compelled to settle the issue. He would further submit that the petitioner had also filed an application before this Court in Crl.O.P.No.25754 of 2021, seeking for a direction against Puducherry Police for not to harass and this Court had also directed the respondent police not to harass the petitioner.



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3.1.Learned Senior Counsel would further submit that if at all the allegation is true, the defacto complainant should have presented the signed contract from the petitioner and a bare reading of FIR shows that it is a civil transaction and which had given a criminal colour. Now, only to evade payment and settle the issue by force, a false complaint has been given by the defacto complainant. He would submit that though the notice under Section 41 A of Cr.P.C., has been issued to the petitioner, the petitioner apprehends arrest at the hands of the respondent police. Hence he prays for grant of anticipatory bail to the petitioner.

4. Per contra, the learned Public Prosecutor (Puducherry) would submit that the petitioner has induced the *de-facto* complainant and on the promise of giving a sub-contract they made the *de-facto* complainant to do works and cheated the *de-facto* complainant to the tune of Rs.7,64,95,923/-. When the *de-facto* complainant asked for balance payment the accused threatened him with dire consequences. Hence, he opposed to grant anticipatory bail to the petitioner.



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5. The learned counsel for the intervenor would submit that the petitioner has conveniently induced the *de-facto* complainant and in the guise of giving a sub-contract made the *de-facto* complainant to invest amount in the contract and thereby they have cheated him to the tune of Rs.7,64,95,923/-. He would further submit that though it may look like a civil case, the accused have induced and cheated the *de-facto* complainant. In a similar manner, the accused have cheated another contractor M/s. Venus Electricals. Therefore, he opposed to grant anticipatory bail to the petitioner.

6. Heard the learned counsel and perused the materials available on record.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



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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 Chief Judicial Magistrate, Puducherry, on condition that the petitioner shall execute 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 four 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;

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