



Crl.O.P.Nos.26365 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.33 of 2022, seeks anticipatory bail.

2.1. The case of the prosecution as per the defacto complainant Murugavel is that he is an Electrical Contractor, running M/S Venus Electricals Company for the past 15 years by taking Government contracts in Pondicherry and Tamil Nadu Electrical Projects and during the year 2016, the accused along with his friend one Venugopal Reddy approached the defacto complainant and represented that they had been granted a contract of laying underground cable at Thavalakuppam, fishermen area for an amount of Rs.12.58 Crores and since they are unable to do that they would give sub-contract to perform the said contract to the defacto complainant on commission basis. Pursuant to which an agreement was entered between the defacto complainant and the accused Kumaresan on 27.07.2016 in the presence of one Venugopal



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Reddy. Further, the accused had kept both the copies of the agreement with himself stating that he would hand over it after getting auditors opinion.

2.2 It is the further case of the defacto complainant that he had invested more than Rs.10 crores and completed 95% of the works. In the meanwhile, the accused had given Rs.3.67 crores periodically during the contract period and had been cheating the defacto complainant without paying the balance amount. The defacto complainant had given a complaint before the SPCID and no action was taken based on the said complaint. Later the defacto complainant had been contacting the accused through various sources and the accused had threatened him through their henchmen and evading the payment. While being so, the accused had called the defacto complainant for discussion and on believing those words the defacto complainant had gone to the place of the accused on January 2021 at the time the accused had threatened him saying that they would not repay the amount and if the defacto complainant asked about the amount he will be done to death. Hence the complaint.



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3. The learned Senior Counsel appearing for the petitioner would submit that it is a case of commercial transaction which has been falsely projected as a case of cheating. He would further 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. The Government of Puducherry Project Implementation Agency invited tender for execution of "Conversion of Low Tension overhead lines into UG cable system in Puducherry Coastal area under CDRRP Scheme. The contract price was fixed at Rs.12,58,53,423/-. The petitioner is the successful bidder of the contract and he was awarded the contract.

3.1. The learned Senior Counsel would further submit that the defacto complainant, who is a local person from Puducherry, claiming to be a A Grade Contractor dealing with laying of HT and LT Electrical Cable, had approached the petitioner for carrying out sub-contract work by providing labourers. Thereafter, the petitioner and the defacto complainant had entered into an oral agreement on 27.06.2016 and the



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petitioner had so far as paid Rs.3,68,58,577/- to the defacto complainant in the course of an oral agreement. In the meanwhile, there was a dispute regarding implementation of the work, since the men engaged by the defacto complainant, had committed theft of materials belonging to the Puducherry Government and the petitioner's company. In respect of which, a notice has been issued by Puducherry Government. The petitioner have also given a complaint against the defacto complainant before Thavalakuppam Police Station and with regard to the same, enquiry was conducted. During the enquiry, the defacto complainant agreed to settle the issue amicably and he had also given a letter dated 03.03.2020 to the Executive Engineer (Electrical Project Implementation Agency, Puducherry). However, the defacto complainant did not settle the amount, thereby, the petitioner had filed a suit in C.O.S.No.548 of 2021, during November 2021, before the Principal District Judge, Tiruvallur, claiming a sum of Rs.1,37,46,075/- . The defacto complainant has also filed a written statement in C.O.S.No.548 of 2021 and he had also made a counter claim, claiming a sum of Rs.4,85,45,513/- and the said suit is pending.



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3.2. Learned Senior Counsel would submit that the defacto complainant has also filed a W.P.No.18685 of 2020 before this Court, seeking for a direction to the Puducherry Government to stop payment to the petitioner's firm and the same was dismissed on 10.3.2021 with a direction to approach the Civil Court. The defacto complainant has also filed a petition to reject the plaint and the same was also dismissed. The fact remains that the defacto complainant, is the person who owes money to the petitioner and only to evade the payment of money, a criminal case has been foisted with his influence with the Puducherry Police. The Puducherry Police harassed the petitioner and the petitioner had also filed an application before this Court in Crl.O.P.No.25753 of 2021, seeking not to harass and this Court had also directed the respondent police not to harass the petitioner.

3.3. 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



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it is a civil transaction and which had been given a criminal colour. Now, only in order 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. Thereby, the present petition has been filed.

4. Per contra, the learned Public Prosecutor (Puducherry) would submit that the petitioners have induced the defacto complainant and on the promise of giving a sub-contract they made the defacto complainant to do works to the tune of Rs.10 crores and they had paid only Rs.3.67 crores and cheated the balance amount. When the defacto complainant asked for balance payment the accused threatened him with dire consequences. Hence, he opposed to grant anticipatory bail to the petitioner.

5. The learned counsel for the intervenor would submit that the petitioner has conveniently induced the defacto complainant and in the



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guise of giving a sub-contract made the defacto complainant to invest about more than Rs.10 crores in the contract and thereby they have cheated him. He would further submit that though it may look like a civil case, the accused have induced and cheated the defacto complainant. 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 petitioner 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 Chief Judicial Magistrate, Puducherry, on condition that the petitioner shall execute bond for a sum of Rs.25,000/- (Rupees Twenty Five



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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.

[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



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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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