



Crl.O.P.No.26627 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 offence punishable under Sections 406 and 420 of IPC in Crime .No.952 of 2022, seek anticipatory bail.

2. The case of the prosecution as per the de facto complainant Basant R.Soni, Proprietor of M/s.H.M.Textiles, Kalbadevi Road, Mumbai, is that the petitioners and the de facto complainant are engaged in the business of textiles and that the petitioners/accused used to supply fabrics to the de facto complainant from 2012 on payment of advance. The further allegation is that the de facto complainant has paid a sum of Rs.1,86,09,189/- as advance and the petitioners/accused have committed criminal breach of trust and misappropriation and neither supply the goods nor returned the money. Hence the case.

3. The learned counsel for the petitioners would submit that the petitioners and the de facto complainant were doing textiles business from 2012 and it was a running transaction. He would further submit



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that the petitioners are reputed persons and the first petitioner was running business in the Name and Style of M/s.Esskay Textiles, Coimbatore. However, during Covid-19 Pandemic situation, the petitioners business became sick and they were unable to supply the fabrics to the de facto complainant and some other purchasers also. The petitioners lost heavily in the business and they being unable to bear the loss and settle the creditors have filed Insolvency Petitions in I.P.Nos.36 & 37 of 2022 before the Sub Court, Coimbatore and in that petitions, the de facto complainant has been arrayed as 26th and 11th respondent/creditor and the amount has also been shown as Rs.1,86,09,189/-. He would submit that there is no intention on the part of the petitioners to cheat the de facto complainant, and only due to the business loss, the petitioners are unable to pay the amount. He would submit that only after the receipt of notice in the Insolvency proceedings, the complaint has been filed. Hence, he prays for grant of anticipatory bail to the petitioners.



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4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioners and the de facto complainant were having business transaction from 2012. Thereafter, the petitioners had induced the de facto complainant and had received advance amount of Rs.1,86,09,189/- on the promise of supplying fabrics. However, they had failed to supply the same and not returned the money. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioners.

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

6. Taking into consideration the facts and circumstances of the case that the parties were having a running business transaction from 2012 and also the submissions of both sides, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

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



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from the date on which the order copy made ready, before the **learned Judicial Magistrate-II, Coimbatore** on condition that that each of 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 petitioners 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 petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.**

[c] the petitioners shall not tamper with evidence or witness during trial;

[d] the petitioners shall not abscond during trial;



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[e] 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]**;

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

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