



Crl.O.P.No.26751 of 2022

A.D. JAGADISH CHANDIRA, J.,

The petitioners, who apprehends arrest for the alleged offences under Sections 406, 420 and 506(i) of IPC in Crime No.216 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per defacto complainant/Sathyannarayanan is that his brother in law/T.M.Gopalakrishnan is running a jewellery shop in 1967 in the name and style TPS Jewellery and the defacto complainant was having association with his brother in law. During the year 1967, his brother in law had handed over the jewellery shop to him. Later, the defacto complainant decided to convert the said business into a partnership firm through a partnership deed dated 15.05.2006, as per the Deed of Partnership deed, the defacto complainant and his younger brother/Damaodharan was inducted as partners, accordingly, 40% of share was allotted to his younger brother and 60% of share was retained by the defacto complainant. Another partnership deed dated 15.05.2006 in respect of TPS Jewellery Silver was constituted adding the defacto complainant's wife and son and his brother/Dhamodharan and his son/Sudhakar and they were allotted each 25% of share. The further allegation is that his brother/Dhamodharan was affected with



Covid and he died during October 2020, later the sons of deceased Dhamodharan have fabricated the documents and reconstituted the partnership firm and cheated the defacto complainant to the tune of Rs.2,34,66,775/-. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are none other than the nephews of the defacto complainant. The petitioner's father and his younger brother and the defacto complainant were running partnership business dealing with Gold and Silver jewellery. While the petitioner's father was alive, there was a dispute between the father of the petitioners and the defacto complainant. The defacto complainant had earlier filed suits against the father of the petitioners as well as the petitioners in OS.No.8673 and 8674 of 2019 on the file of the XVIII Assistant, City Civil Court, Chennai. Thereafter, the matter was referred to Arbitration, during the pendency of the Arbitration proceedings, the petitioner's father passed away due to Covid. While, the Civil dispute are pending between the parties, the defacto complainant has given a false complaint, as if the petitioners had committed criminal breach of trust and cheating. Earlier, the complaint was given to the respondent/police, during enquiry the respondent/police finding that the dispute between the parties is civil dispute had referred the case as civil in nature and thereafter, the defacto complainant had approached the Magistrate, pursuant to



the directions under Section 156(3) Cr.PC the case has been registered. He would reiterate that a case of civil dispute between the parties has been attempted to be project as a criminal nature and the defacto complainant is attempting to settle the civil dispute under the threat of arrest. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The Government Advocate (Crl.side) would submit that based on the directions issued by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai dated 12.08.2022. He would submit that earlier a complaint has been given before the respondent, the respondent after enquiry had referred the case as civil in nature and he would submit that the investigation is pending. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. Heard the learned counsel on either side and perused the materials available on record including the documents filed by way of typed set of papers.

6. Admittedly, the petitioners and the defacto complainant are close relatives and the petitioner's father and the defacto complainant are brothers and they were running a partnership firm together, later a civil suits were pending between the parties. Earlier a complaint has been given and the case has been



referred as mistake of fact and subsequently, based on the directions from the Magistrate a case has been registered.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Government Advocate (Crl.side), this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Metropolitan Magistrate for exclusive trial of CCB cases (relating to cheating cases in Chennai) and CBCID Metro cases, Egmore, Chennai, on condition that the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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.



[d] the petitioners shall report before the respondent police daily at 10.30am for a period of two weeks and thereafter on every Saturday at 10.30am until further orders.

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

[d] the petitioners 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

04.11.2022

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