Crl.O.P.No.27679 of 2022

A.D.JAGADISH CHANDIRA,J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 409, 420 and 34 of IPC in Crime No.142 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Arun Kumar is that, he is the Accounts Manager of M/s. Antio India Pvt Ltd., having registered office at Maduravoyal. The allegations is that, during the course of the business, in the year 2018, one S.R.Subramaniam (petitioner herein), the then CEO of the company had business deal with the M/s.Sai Suriya Exports Tanzania Limited to import food pulse and grains namely chickpeas and cashew nut from Tanzania to India. The further allegation is that, when the first accused was the C.E.O of the company, he had sent an amount of U.S. Dollar 1,05,000/- to M/s.Sai Suriya Exports Tanzania Limited for purchasing chickpeas and cashew nuts. After receiving the amount, the foreign company neither supplied the goods nor returned the money. Later, it was found that the petitioner, on the strength of him being the CEO of the

company had taken the money to the tune of Rs.20 lakhs from the foreign company directly to his account in violation of RBI rules and had misappropriated the amount and cheated the defacto complainant's company. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a case of business transactions has been falsely projected as a case of criminal offence. He would further submit that there are business dealings between the petitioner and the defacto complainant's company. He would further submit that the petitioner had infact invested a sum of Rs.50 lakhs in the defacto complainant's company and another 25 lakhs in the sister concern of the defacto complainant's company and in respect of the investments, payments were sent directly to the defacto complainant's account. In order to escape from the action to be taken against the defacto complainant's company under the Foreign Exchange Management Act, false complaint has been lodged by the defacto complainant, as if the amount was sent in violation of rules. He would further submit that the amount sent to the petitioner's account are nothing but returns for the

investments made by the petitioner in the company. He would also submit that, without prejudice, to show his bonafides, petitioner is prepared to deposit original title deeds of documents of immovable property worth about Rs.25 lakhs at the time of furnishing the sureties. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that, the petitioner was the then CEO of the defacto complainant's company and while he was working as a CEO, the company had sen an amount of U.S.Dollars 1,05,000/- to M/s.Sai Suriya Exports Tanzania Limited for import of cashew nuts and chickpeas, whereas the said company neither sent the products nor repaid the amount. He would further submit that the petitioner claiming himself as a CEO had impressed upon the foreign company and had directly received money to the tune of Rs.20 lakhs to his account without informing the defacto complainant's company and thereby he had cheated the company. He would further submit that the investigation is pending and would oppose for grant of anticipatory bail.

5. The learned counsel appearing for the defacto complainant would submit that the petitioner has parted with U.S. Dollar 1,05,000/- to M/s.Sai Suriya Exports Tanzania Limited for purchasing channa dal and cashew nuts, during such time, the petitioner was the then CEO of the company had taken the money to the tune of Rs.20 lakhs to his account in violation of RBI rules and had misappropriated the amount. Hence, he oppose for grant of anticipatory bail to the petitioner.

6. Taking into consideration of the facts and circumstances of the case and also taking note of the fact that the petitioner is ready to deposit original title deeds of documents of immovable property worth Rs.25 lakhs (either belonging to himself, friends of relatives) at the time of furnishing the sureties, this Court is inclined to grant anticipatory bail with certain conditions.

7. Accordingly, the petitioner shall deposit the original title deed of an immovable property worth Rs.25,00,000/-(Rupees Twenty Five Lakhs) (either belonging to himself, friends or relatives) to the credit of Crime No.142 of 2022 and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a

period of fifteen days from the date on which the order copy made ready, before the **learned CCB Special Court, Egmore** on condition that 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 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 two 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.

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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 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.

17.11.2022

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