



Crl.O.P.No.689 of 2023

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T.V.THAMILSELVI,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 4 of the Prohibition of Charging Exorbitant Interest Act, 2003 and 506(i) of IPC, 1860 in Crime No.455 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that on 29.06.2015, the defacto complainant's wife one Kavitha and one Nachimuthu/A3 have entered into a registered mortgage deed and received a sum of Rs.35,00,000/-. For the very same property, she had entered into a registered sale agreement with one Shanmugam/A3 and also gave Power of Attorney to the petitioner herein. It is also alleged that from 01.06.2015 to 03.12.2021, the defacto complainant had paid a sum of Rs.1,54,00,000/- to the accused persons. Hence, the case.

3.The learned counsel for the petitioner would submit that the defacto complainant and his wife received a sum of Rs.35,00,000/- from



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A3 as loan and entered a registered mortgage deed with him. Thereafter, they have also entered into a sale agreement with A2 and appointed the petitioner as defacto complainant's wife's power agent. He would also submit that for some auditing purpose, they have cancelled the sale agreement with A2 and subsequently, entered a new sale agreement with the wife of A2. Hence, in order to avoid the repayment of loan and to avoid the execution of the sale deed, the defacto complainant has lodged a false complaint against the accused persons. He would further submit that the co-accused were granted bail. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner has obtained power of attorney from the defacto complainant on threat. He would also submit that there is a money transaction between them and some of the documents were forcibly obtained from the defacto complainant's wife. Now, the petitioner is said to be power of attorney of the defacto complainant's wife. However, the said power of attorney was strongly objected by the defacto complainant as it was forcibly obtained.



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Hence, he opposed for grant of anticipatory bail to the petitioner.

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5.Taking into consideration the facts and circumstances of the case and also considering the fact that the transaction between the parties starts from the year 2015, there is no tampering of evidence, and the fact that the dispute between the parties is civil in nature, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 Judicial Magistrate, Komarapalayam** on condition that the petitioner shall execute a bond for a sum of **Rs.1,00,000/- (Rupees One Lakh only)** with two sureties (out of which, one surety should be a blood surety), 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:



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[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 eight weeks;

[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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7.Further, the petitioner is directed to surrender the original power of attorney along with an affidavit of undertaking stating that he would not cause any encumbrance in respect of the subject property based on the said power of attorney before the Court concerned until this condition is modified by any of the Court of law or until the proceedings are completed and the petitioner should not interfere with the possession and enjoyment of the defacto complainant's family unlawfully except in the manner known to law.

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