



CrI.O.P.No.993 of 2023

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**T.V.THAMILSELVI, J.**

The petitioner, who apprehends arrest for the alleged offence under Section 420 & 506(i) of IPC and Sec. 4 of TN Prohibition of Charging Exorbitant Interest Act, 2003 in Cr.No.566 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant borrowed a sum of Rs.50,000/- from the petitioner on 05.07.2010 and since he was unable to repay the same, the petitioner included him in a monthly chit scheme through the chit, the defacto complainant had repaid Rs.60,000/- and is liable to pay only a sum of Rs.5000/-. Thereafter, during the demise of his father-in-law the defacto complainant borrowed a sum of Rs.10,000/- from the petitioner by handing over the title deed of his property document as security. According to the defacto complainant though he had repaid the said sum in the year 2016 itself the petitioner had not returned the title deeds and hence the defacto complainant issued notice on 26.04.2017. Hence the complaint.



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3.The learned counsel appearing for the petitioner would submit that the defacto complainant borrowed money from the petitioner's wife and had not repaid the same on 26.04.2017 she had issued a legal notice to the defacto complainant for which a reply was issued on 19.05.2017. Thereafter, the matter is settled between themselves. However, after a period of five years, joining with one Rajkumar, the defacto complainant had lodged the present false complaint against this petitioner. The learned counsel would submit that the petitioner has nothing do with the alleged transaction and the present complaint is lodged only to harass and threatened the petitioner and he was purposefully impleaded in this case as he is working in Government service. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4. The learned Intervenor/defacto complainant submit that the petitioner being an politically influenced person, he is dodging the defacto complainant by not returning the title deeds of his property which were given to the petitioner as security for the loan. Hence, he prays to dismiss the anticipatory bail to the petitioner.



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5. The learned Government Advocate (Crl.side) would submit that admittedly there was money transaction between both the parties and at one time, it had entered into the present complaint being lodged against this petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6. On enquiry counsel for the petitioner would submit that his client is not holding any original document belonging to the defacto complainant and this is evident from the exchange of notices from the year 2017 onwards. He would submit that as per the allegation in the FIR the original document belonging to the defacto complainant is being retained by this petitioner. He states that the petitioner is ready to file an affidavit of undertaking before the trial Court that he is not holding the original document of the defacto complainant and that he shall not goes any encumbrance ever property belonging to the defacto complainant in any manner, except under due process of law.



7. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner on his filing an undertaking affidavit before the Trial Court as agreed by him.

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 of receipt of a copy of this order, before the learned **Judicial District Munsif-cum-judicial Magistrate, Kilvelur**, condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** each, with two sureties out of which one surety must be a blood related surety 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 and on further condition that:

(a) the petitioner file an affidavit that he is not holding original title deed of the defacto complainant along with undertaking will not create any encumbrance over the property.

(b) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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**(c) the petitioner shall report before the respondent police on every Wednesday for a period of three months, and thereafter, as and when required for interrogation;**

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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]***; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

**12.01.2023**

*vsn*



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