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Crl.O.P.No.1306 of 2023

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T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offence punishable under Sections 406 and 420 of IPC in Crime No.16 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant/Suresh is running a transport business in the name of M/s.Leo Transport Pvt Ltd., and the petitioner is running a business of Transporting of Goods in the name and style of M/s.Titanium Transport Connect lines. The defacto complainant bought 12 Tractor vehicle by obtaining loan and he has to pay EMI to repay the loan amount. Due to financial crisis, the petitioner made a proposal to the defacto complainant to take over his 12 tractor trailers and the EMI for the said 12 vehicles have to be paid by the petitioner. The petitioner has also agreed for the proposal made by the defacto complainant and after completion of payment of EMI, the petitioner shall transfer the vehicles in his favour.



CrI.O.P.No.1306 of 2023

However, the petitioner failed to pay the EMI and not returned the vehicles also. When the defacto complainant questioned about the status of EMI and 12 Vehicles, there is no proper response from the petitioner. The defacto complainant came to know that he was cheated by the petitioner to the tune of Rs.12,30,000/- and 12 Tractor trailers. Hence, he lodged a complaint before the respondent police.

3. The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. He further submitted that the petitioner has decided not to continue the agreement and demanded the defacto complainant to return the amount and get back the 6 vehicles. Having enraged by the demand of the petitioner, the defacto complainant has preferred a false complaint as if he handed over all the 12 vehicles and the petitioner has come forward to return only 6 vehicles. Then only the petitioner had taken efforts to find out the status of the 6 vehicles. The search made by the petitioner shows that the defacto complainant has not obtained fitness certificate for all the disputed 6 vehicles from the year 2019. Besides, he had not



CrI.O.P.No.1306 of 2023

renewed the insurance for some vehicles. Hence, the vehicles were blacklisted by the Road Transport Authorities and it is obvious that the vehicles cannot be allowed to ply on road. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) submitted that the petitioner cheated the defacto complainant to the tune of Rs.12,30,000/- and 12 tractor trailers were not returned by the petitioner. He further submitted that there is no previous case against this petitioner. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the intervenor raised strong objection for the grant of anticipatory bail to the petitioner. He submitted that the petitioner and the defacto complainant agreed and entered into an agreement but the petitioner failed to comply the terms of agreement due to which the defacto complainant incurred huge loss to the tune of Rs.12,30,000/- and the petitioner also not returned his 12 vehicles.



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6. Heard the learned counsel for the petitioner, the learned counsel for the intervenor and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the material available on record.

7. Considering the facts and circumstances of the case and investigation is almost completed this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on hsi appearance before the **learned Judicial Magistrate Court, Thiruvottiyur** on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with two sureties (out of which one surety should be 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 is directed to appear before the respondent police on every Wednesday at 10.30 a.m., for a period of six weeks.

[c] the petitioner is directed to pay the EMI for six vehicles without prejudice to his rights.

[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 petitioner 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



Crl.O.P.No.1306 of 2023

T.V.THAMILSELVI, J.

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down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**

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

07.02.2023

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Crl.O.P.No.1306 of 2023

07.02.2023