



CrI.O.P.No.4949 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 465, 468, 471, 406 and 420 of IPC in Crime No.4 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant had executed a Power of Attorney in favour of A1 and A2 in the year 2016. The further case is that A1 and A2 based on a fabricated Life Certificate, had transferred the property in favour of the company run by A2 during the year 2017. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is a business man, engaged in property development and real estate. The petitioner as usual in the real estate trade, had paid the entire money to the defacto complainant and obtained Power of Attorney. Based on that, the petitioner had developed the properties belonging to the defacto complainant and sold it to third parties. While so, since the price



CrI.O.P.No.4949 of 2023

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of the properties have escalated, the defacto complainant had demanded further amounts and since there was dispute, he has given a false complaint against the petitioner. He would further submit that earlier, the defacto complainant had threatened the petitioner demanding huge amounts and the petitioner has filed a private complaint against the defacto complainant before the 29th Additional Chief Metropolitan Magistrate Mayohall, Bangalore. He would further submit that only as a counter blast, a false complaint has been given. He would further submit that the defacto complainant based on his false complaint is attempting to arrest the petitioner and recover back the property under threat in respect of which, the petitioner had paid huge amounts to him.

4. The learned counsel would submit that if the intention of the petitioner was to cheat the defacto complainant or create fabricated documents, he would have sold the entire property whereas, 12.35 acres of property have not been transferred so far and the petitioner, without prejudice, is ready to file an affidavit of undertaking that he will not further alienate the property or create any encumbrance over the property. He would also



CrI.O.P.No.4949 of 2023

WEB COPY

submit that till date, the Power of Attorney given to the petitioner has not been cancelled by the defacto complainant. Hence, he prays to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the defacto complainant had executed a Power of Attorney in favour of A1 and A2 in the year 2016 and that the accused based on fabricated Life Certificate, had transferred the property belonging to the defacto complainant in favour of the company run by A2 during the year 2017. He would further submit that investigation in this case is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Criminal Side) for the respondent and perused the entire materials available on record.



CrI.O.P.No.4949 of 2023

WEB COPY

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also the affidavit of undertaking filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

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 on which the order copy made ready, before the **learned Judicial Magistrate, Udhagamandalam**, 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.



CrI.O.P.No.4949 of 2023

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of three weeks and thereafter 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.

[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.

16.03.2023

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Crl.O.P.No.4949 of 2023

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Crl.O.P.No.4949 of 2023

16.03.2023