



CrI.O.P.No.5859 of 2023

A.D. JAGADISH CHANDIRA, J.,

The petitioners, who are apprehending arrest for the alleged offences under Sections 465, 466, 468, 471 and 420 of IPC in Crime No.114 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per defacto complainant/Alice Auxila is that she is a daughter of first petitioner and she got married on 13.03.2019 to a person who belong lower strata community and she was living separately. The accused who are respectively mother and sister of the defacto complainant, by suppressing facts had obtained legal heir certificate without her name and thereafter mortgaged her father's property and obtained loan from the bank. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons, due to misunderstanding in the family a false complaint has been given by the defacto complainant who is daughter of the first petitioner. The husband and father of the petitioners and the defacto complainant borrowed a loan from the Bank and due to default in payment the residential property was also brought for auction sale, since the defacto complainant has not come forward to settle the loan, the petitioners left with no other option to redeem the prime property which was mortgaged had mortgaged the other properties. The defacto complainant who was against the same, has given a false



complainant against the petitioners. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The Government Advocate (Crl.side) would submit that the petitioners and the defacto complainant are mother and sister respectively. The allegation is that the petitioners by obtaining a legal heir certificate leaving her name had mortgaged the property belong to her father and obtained loan from the Bank and due to default in payment, the property was brought for auction sale. The case is under investigation. Hence, he oppose for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Government Advocate (Crl.side), this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate, No.I Tirupathur, on condition that the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30am for a period of two weeks and thereafter on every Saturday at 10.30am until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 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]***.

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

With the above directions, this Criminal Original Petition is ordered.

30.03.2023

tsh



WEB COPY



A.D. JAGADISH CHANDIRA. J,
tsh

Crl.O.P.No.5859 of 2023

30.03.2023.