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Crl.O.P.No.7283 of 2023

T.V.THAMILSELVI, J.

The petitioner who apprehends arrest for the alleged offence under Sections 406 and 420 of IPC in Cr.No.180 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner obtained loan to an extent of Rs.75 lakh from the City Union Bank by hypothecating machinery. As per the terms of the loan, the hypothecated machinery has to keep in the same place but the machinery had shifted to Ragavendra Marriage Hall on 30.01.2021 without any information to the Bank. While so, on 20.02.2021, the defacto complainant was informed that the marriage hall was broke open and machineries were taken away by unknown persons. Hence the complaint.

3. The learned counsel for the petitioner submitted that the defacto complainant has created an agreement without the consent and signature of the petitioner and disbursed a loan to the tune of Rs.75,00,000/- on 30.12.2019. The defacto complainant had also forged the petitioner's signature and withdrew money from the petitioner's account by encashing



cheques which are still in possession of the petitioner. Therefore the petitioner lodged a complaint against the defacto complainant. In order to wreak vengeance the defacto complainant lodged this complaint. Further, the complaint bank already initiated DRT proceedings against a petitioner in respect of other loans and they auctioned his properties for lesser value and realized the debt amount and still there is loan due and to realise the same other properties now under the hands of bank. Hen ready to abide any condition prayed for anticipatory bail.

4. The learned Government advocate (Crl.side) submitted that the petitioner availed loan to the tune of Rs.75 lakhs for the purpose of weaving machineries from the second respondent, for that the petitioner executed hypothecated agreement by pledging his machineries. After availing loan,with an ulterior motive the petitioner removed the machineries stealthily. Hence, the second respondent gave a complaint and he prays to dismiss this petition.

5.The fact reveals that already this petitioner committed default in repayment of loan to the defacto complainant bank for that bank initiated SARFASI proceedings before DRT, and part of the loan amount also realised by auctioning the hypothecated properties, still petitioner's



properties are with bank so there is no possibility of tampering the evidence.

Therefore, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on anticipatory 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 Magistrate, Tiruchengode*, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten 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 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 Court concerned 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 on every Tuesday and Friday at 10.30 a.m. for a period of eight weeks and thereafter, monthly once till filing of final report.

(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;

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(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 anticipatory 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;

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

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