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Crl.O.P.No.7641 of 2023

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and Crl.MP.No.5456 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 406, 420 and 506(1) of IPC in Crime No.189 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Murthy is that, he is working as a conductor in MTC Corporation and when he was in search of a land for his relatives, at that time, one Gopalakrishnan got acquainted with him and he had stated that he got the property in Anna Street, Porur Village, at S.No.10/3 measuring to an extent of 45 cents. Believing the same, the defacto complainant along with Rajendran and Srinivasan had paid an amount of Rs.1,30,00,000/- and the said Gopalakrishnan had entrusted the original documents to them and also entered the Memorandum of Understanding with him. While so, on 12.10.2018, the defacto complainant had handed over the documents to the petitioner and requested him to sell the



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property and the same was not sold by him for several years. While so, he had gone to Guindy, Sangeetha Hotel and requested the petitioner to return the documents and the petitioner demanded for RS.60 lakhs saying that if he would pay the amount, he will return the documents or otherwise he would destroy the documents and he intimidated him and went away with the documents. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submit that when the petitioner was in search of a property one Shivaji Raja and Jayapal have approached him stating that they are the Power of Attorney holders of one Gopalakrishnan, who is the owner of the property at Anna Street, Porur Village at Survey No.10/3 measuring to an extent of 45 cents and believing the same, the petitioner had parted his advance amount to the tune of Rs.45 lakhs out of which Rs.35 lakhs was by way of cheques on 26.06.2012, 3.07.2012 and 21.09.2012 and a sum of Rs.10 lakhs by way of cash. Since huge amount was paid, the Power of Attorney had handed over the



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original title deeds to the petitioner and the petitioner was in possession and later the Power of Attorney had failed to register the sale deed and return the money. Later, the petitioner came to know that the said Gopalakrishnan had also received advances from several persons. Further, the petitioner is the real victim in this case and he had paid the amount of Rs.45 lakhs during the year 2012 and he had not received the amount from the Power of Attorney or the owner Gopalakrishnan. He would further submit that the original documents are with the petitioner and they are holding it for towards the advance paid for sale deed. He would further submit that now some third parties claiming to have paid advances to Gopalakrishnan have filed a false complaint. He would further submitted that the defacto complainant is an absolute stranger to the petitioner and no such incident had happened at Guindy, Sangeetha Hotel. He further submitted that the petitioner is ready to appear before the respondent and show the documents and the proof of paying the advance amount to the Power of Attorney of the owner viz. Gopalakrishnan. He further submitted that the original document was entrusted to him as security for the advance amount paid and the petitioner later came to know that the said Gopalakrishnan



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showing that he is the owner of the property had received money from several persons and also cheated them. He further submitted that the defacto complainant is now set up by Gopalakrishnan to take back the documents without returning the advance based on the false complaint. He further submitted that the entire case of prosecution are borne out by records and thereby he would seek anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that as per the complaint, the defacto complainant along with three of his friends had paid advance and had received the documents from the owner of the property from one Gopalakrishnan whereas, the accused had taken the documents from the defacto complainant and he is refusing to return the same. He would further submit that as per the complaint, the defacto complainant himself had handover the documents to the petitioner and hence he object for grant of anticipatory bail to the petitioner.

5. Learned counsel for the intervenor would vehemently opposed



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stating that the accused had received the documents from the petitioner on the false promise that he would sell the land within a particular time, whereas he had dragged for several years and when the petitioner had asked for return of the documents at Sangeetha Hotel, Guindy, the petitioner had threatened the defacto complainant and also intimidated that he would destroy the documents. He further submitted that the petitioner has not come to Court with clean hands and he is not entitled for anticipatory bail.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case and also the submissions made by the learned counsel, this Court is inclined to grant anticipatory bail to the petitioner.

7. 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 IX Metropolitan**



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Magistrate Court, Saidapet, Chennai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000 /- (Rupees Ten Thousand only) 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 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 shall report before the respondent police every day at 10.30 a.m, for a period of two weeks and thereafter on every Saturday at 10.30 a.m, until further orders.

[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



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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]**.

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

8. Accordingly, this Criminal Original Petition is ordered. Consequently, connected Miscellaneous Petition is closed.

15.06.2023

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A.D.JAGADISH CHANDIRA, J.

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