



Crl.O.P.No.9107 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 406, 420, 379, 506(ii) of IPC and Section 25(ii) of Arms Act in Crime No.216 of 2023, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/Sennappan is that the accused had engaged the services of the defacto complainant for levelling the lands and agreed to give Rs.85 lakhs for the same. Believing the words of the accused, the defacto complainant had engaged two JCBs (Poclains) and five Tractors and other equipments and had levelled 50 acres of the lands and when he asked for settlement, the accused has refused to pay the amount and kept the JCBs and Tractors and refused to give it to him and also intimidated him. Hence the case.



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3. Learned counsel for the petitioners submitted that the case of civil/ commercial dispute has been wrongly converted as a criminal case. He further submitted that there was a dispute between the defacto complainant and the petitioner with regard to the extent of land and the defacto complainant had claimed a huge amount based on false bills and the petitioners have also paid Rs.85 lakhs sofar and since the defacto complainant had demanded a huge amount, there was a quarrel and other than that there is no dispute between them. He further submitted that in respect of the very same cause of action, the defacto complainant had earlier given a complaint before the Pappireddypatti Police Station, in which, a case in crime No.119 of 2022 was registered for the offence under Sections 341, 379, 506(ii) of IPC and Section 25(1)(a) of Arms Act on 29.10.2022. Later the petitioners had approached this Court and they had obtained bail in Crl.O.P.No.17685 of 2022 dated 28.07.2022. Subsequently, on the same set of facts, a private complaint was given before the learned Judicial Magistrate, Omalur and the learned Judicial Magistrate had dismissed the same and later, after obtaining a direction from this Court in Crl.R.C.No.1422 of 2023, the case came to be



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registered. He reiterated that the allegations made in both the complaints are one and the same. He further submitted that the JCBs and the tractors have been recovered by the respondent Police and the defacto complainant himself has left the JCBs and Tractors in his land. Hence, he prayed for grant of anticipatory bail to the petitioners.

4. Learned Government Advocate for the respondent submitted that the petitioners agreed to pay a sum of Rs.85 lakhs for levelling their 50 acres of land and after completion of the said work, the petitioners have refused to pay the amount and also kept the vehicles belonging to the defacto complainant as ransom and they had also threatened the defacto complainant. He further submitted that the investigation is still pending. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. Learned counsel for the intervenor vehemently opposed for granting of anticipatory bail to the petitioners stating that the petitioners have not only taken the work of the defacto complainant and they have



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cheated the defacto complainant and they have also kept the vehicles as ransom and they have refused to return the vehicles and also threatened him. He further stated that the complaint given before the Pappireddypatti Police Station and Deevattipatti Police Station are in respect of two different incidents. Hence, he prayed for dismissal of the petition.

6.At this juncture, the learned counsel for the petitioners reiterated that a case of civil transaction has been given a criminal colour. He further submitted that the petitioner, to show their bonafide, without prejudice to their defense and contention, are jointly ready and willing to deposit Rs.5 lakhs, before the Court concerned. Hence, he prayed for grant of anticipatory bail to the petitioners.

7. Heard both sides and perused the materials available on record including the FIR.



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8. Taking into consideration the facts and circumstances of the case, the submissions of learned counsel on either side and that without prejudice, the petitioners are jointly prepared to deposit Rs.5 lakhs to the credit of Crime Number, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, **the petitioners are jointly directed to deposit a sum of Rs.5 lakhs (Rupees Five Lakhs only) to the credit of Crime No.216 of 2023**, without prejudice to their rights and contentions before the trial Court and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before **the learned Judicial Magistrate, Omalur**, on condition that the petitioners shall execute a separate 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, failing which, the petition for anticipatory bail shall stand dismissed and on



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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 his Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent Police, everyday at 10.30 a.m., 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]**.



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

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