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Crl.O.P.No.16455 of 2023

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G.CHANDRASEKHARAN. J.

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences under Section 294 (b), 506 (ii), 406, 420 I.P.C, 1860, in Crime No.258 of 2023 on the file of the respondent police, seek anticipatory bail.

2.It is the submission of learned counsel for the petitioners that petitioners are falsely implicated as accused in Cr.No.258 of 2023 registered for the offences under Section 294 (b), 506 (ii), 406, 420 I.P.C, 1860. There is no specific allegations made against the petitioners in the First Information Report. Allegations are made only against the first accused. Petitioners are innocent. Apprehending arrest, this petition is filed seeking anticipatory bail.

3.In response, the learned Government Advocate (Criminal side) submitted that first accused is the owner of the house. Accused 1 and 2 and defacto-complainant had entered into a sale agreement on



CrI.O.P.No.16455 of 2023

WEB COPY

10.09.2020, for the sale of their house for a sum of Rs.18,00,000/-. They received a sum of Rs.15,30,000/- as advance. As per the sale agreement, the balance amount will be received on or before 29.09.2020. Despite, the defacto-complainant was ready to pay the balance sale consideration, the accused had not come forward to execute the sale deed. They have also not repaid the amount paid.

4.Considered the rival submissions and perused the records.

5.It is seen from the First Information Report allegations that there is an agreement for sale between the defacto-complainant and accused 1 and 2 and the time limit fixed for completion of the sale is on or before 29.09.2020. The issue primarily relates to a civil issue concerning specific performance of contract. In the said circumstances, this Court is of the view that giving criminal complaint in a civil dispute is not appropriate. The issue involved in this case is required to be examined only by the production of documents. Custodial interrogation of the petitioners is not necessary. Thus, this Court is inclined to grant anticipatory bail to the



Crl.O.P.No.16455 of 2023

petitioners. Accordingly, 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, Ambur**, on condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- each (Rupees Ten Thousand only) each 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 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 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.



CrI.O.P.No.16455 of 2023

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

27.07.2023

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Crl.O.P.No.16455 of 2023



WEB COPY



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