



Crl.O.P.No.18706 of 2023

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WEB COPY **C.V.KARTHIKEYAN, J.**

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 406 and 420 IPC, in Crime No.208 of 2023, seek anticipatory bail.

2.The learned counsel for the petitioners stated that the petitioners are innocent persons and they have been falsely implicated in this case. Thus, he prays for grant of anticipatory bail to the petitioners.

3.It is the case of the prosecution that defacto complainant had given a complaint stating that he is doing a business in the name of Shree Varu Gold Billion at Coimbatore. During March 2022, petitioners/accused approached him and received 2 Kgs of pure gold. It is stated that this transaction is known to the defacto complainant's friend namely, Babulal, his wife Mahalakshmi, one Prakashbabu and also to the son and daughter of the petitioners. It was stated that the petitioners had assured to repay the amount within a period of two months.



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4.The entire issue revolves around the transfer of Gold, probably on trust between the defacto complainant and the accused persons. This issue can be examined and established only during the course of trial. At this stage, this Court can never come to any conclusion as to whether the defacto complainant had given the gold or not given the gold at that particular point of time. This matter was referred to Mediation by my learned predecessor. Before the Mediation, the petitioners had offered to pay a sum of Rs.12,00,000/-, which the defacto complainant had refused. This Court cannot come to the rescue of any one of the two parties. The only issue here is whether anticipatory bail is to be granted or not. No proof has been produced for the delivery of 2 Kgs of gold.

5. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, 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 **Judicial Magistrate No.V, Coimbatore**, on condition that the petitioners shall



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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 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 morning at 10.00 a.m., and evening at 5.00 p.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



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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.

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