



Crl.O.P.No.19232 of 2023

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**Orders Reserved on
19.09.2023**

**Orders Pronounced on
22.09.2023**

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RMT. TEEKAA RAMAN.,J.

The petitioner is the first accused apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 of IPC on the complaint lodged by one Ashok Kumar, s/o Dhasaradha Naidu as per court direction in Crl.MP No.23625 of 2023 dated 16.06.2023 on the file of the XIII Metropolitan Magistrate Court, Egmore, Chennai, seeks anticipatory bail.

2. The case of prosecution is that the defacto complainant had borrowed a sum of Rs.20 Lakhs from 17.02.2015 to 27.02.2015 from the petitioner with the condition to pay a sum of Rs.80,000/- per month at the rate of interest 4% per month plus principle amount. The defacto complainant so far paid Rs.48 lakhs to the petitioner towards interest and principle which is more than the borrowed money. At the time of borrowing the money, the defacto complainant has given 4 blank ICICI Bank cheques for security to the petitioner. The petitioner also lodged a police complaint



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against the defacto complainant and that in connection with that complaint.

3. The learned counsel for the petitioner would submit that initially the accused has given a complaint against the defacto complainant herein and hence the defacto complainant moved this Court in Crl.OP No.20447 of 2020 to obtain orders from this Court not to harass. He further contended that during the police enquiry, he had given a statement on 04.09.2023 that it is the defacto complainant who had cheated him and he is only a victim and the defacto complainant has borrowed a sum of Rs.20 Lakhs in the year 2015 and agreed to repay the amount with 2% interest. However, he has not made the same and hence subsequently, he gave three cheques; that all the cheques are bounced. In the year 2019, the defacto complainant has raised Rs.18 Lakhs loan from Margadarsi Chits Private Ltd. by mortgaging the property wherein his wife has availed the chit fund amount and the petitioner herein/Gunasekaran stood as a guarantor for the amount not paid by the wife of the defacto complainant namely A.Geetha to the chit amount of Rs.24 Lakhs, in two chits to the tune of Rs.48 Lakhs and he stood as a guarantor and now for the non-payment of chit amount raised by the wife of the defacto complainant, the Margadarsi Chits Private Ltd. has initiated arbitration



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proceedings in ARC No.381 of 2022 wherein as a guarantor the petitioner has also been added as a party now facing the judicial proceedings for the amount due. In such circumstances, the defacto complainant has given this false complaint against the petitioner.

4. The learned Government Advocate (crl.side) would submit that the matter is under investigation.

5. Heard the learned counsel for the petitioner as well as the Government Advocate (crl.side) and perused the records.

6. After perusing the written submission made by the petitioner herein on 04.07.2023 before the respondent police and also the communication received from the Arbitration Proceedings for the claim made by the Margadarsi Chits Private Ltd., wherein this petitioner stood as a guarantor for a sum of Rs.56 Lakhs for the wife of the defacto complainant and also the fact that the earlier complaint was initially given by the petitioner, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of



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arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned **XIII Metropolitan Magistrate, Egmore, Chennai**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum 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 on every Tuesday and Saturday at 10.30 a.m., for a period of six weeks.

[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.

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

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RMT. TEEKAA RAMAN., J.

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