



WEB COPY



CrI.O.P.No.22893 of 2023

CrI.O.P.No.22893 of 2023
and CrI.MP.16461 of 2023

C.V.KARTHIKEYAN, J.

The petitioners seek anticipatory bail in Crime No.116 of 2023, registered under Sections 294(b), 448, 456, and 506(ii) IPC.

2.The petitioners were the previous owners of the property at Door No.3/15, Karuparyan Kovil Street, Balaji Nagar, S.S.Kulam, Sarcarsamakulam, Annur, Coimbatore-641 107. They had mortgaged the property with the Indian Bank. They had given power of attorney to one Satish Kumar, who had actually executed the mortgage deed. It is stated that he had also not informed about the SARFAESI proceedings initiated for recovery of default. Thereafter, the 1st petitioner's husband had filed O.S.No.190 of 2018, which is pending before the Principal District Court at Coimbatore. It had been stated that the de facto complainant had purchased the property through Court auction conducted by the Indian Bank on 8.8.2022. The de facto complainant was put in possession. The petitioners thereafter, had taken back possession of the property. This led to a complaint being lodged and FIR being registered under Sections 294(b), 448, 456, and 506(ii) IPC.

3.This Court on 3.11.2023, had given an option that the petitioners may hand over possession to the officials of the Indian Bank, Sowripalayam



Crl.O.P.No.22893 of 2023

Branch. The learned counsel for the petitioners today represents that he had

WEB COPY

C.V.KARTHIKEYAN, J.

kp

conveyed that order to the petitioners, but they have not come forward to handover the property. In view of the particular fact, the issue of anticipatory bail will have to be now considered by the Court. The fact that the de facto complainant had purchased the property through Court auction cannot be either denied or disputed. The fact that the property had been earlier mortgaged to Indian Bank again cannot be denied or disputed. The fact that therefore, the Indian Bank had every right to initiate proceedings under SARFAESI Act and also bring the property to auction cannot be also either denied or disputed. In view of the fact that through legal proceedings the de facto complainant had purchased the property, it is only appropriate that the de facto complainant, when dispossessed, is recognised to have a right to lodge a complaint. The petitioners have not taken up the opportunity to handover the possession. In view of that particular fact, and since the petitioners have not exhibited bonafide on their part, the petition seeking anticipatory bail stands dismissed.

4. Accordingly, anticipatory bail petition stands dismissed. Crl.MP.16461 of 2023 (Intervening petition) stands closed.

10.11.2023



Crl.O.P.No.22893 of 2023

Crl.O.P.No.22893 of 2023