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Crl.O.P.Nos.23006 & 23185 of 2023

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C.V.KARTHIKEYAN, J.

The 3rd accused has filed Crl.OP.No.23006 and the 2nd accused has filed Crl.OP.No.23185 of 2023, both in Crime No.463 of 2023, registered under Sections 120B, 406 and 420 IPC. The 1st accused has been taken into custody and still in custody.

2.The case of the prosecution is that the de facto complainant purchased new tractor by exchanging his old tractor from Accused No.1 and Accused No.2. They arranged finance for his new vehicle. The de facto complainant had given Rs.80,000/- as initial amount. The loan amount was Rs.6,00,000/- and after deduction due to exchange, Rs.4,75,000/- had to be paid to the finance company. But instead of settling the amount the A1 and A2 sold the old tractor for Rs.5,20,000/- also, the de facto complainant paid Rs.1,18,600/- as EMI. Totally Rs.7,186,600/- was cheated by the accused persons. Hence the complaint.

3.The learned for the petitioners stated that the Tractor is now under the control and possession of the 1st accused. The learned counsel stated that according to the respondent, the value of the Tractor is about Rs.5,00,000/-. The learned counsel further stated that to express bonafide both the petitioners



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would deposit a sum of Rs.1,00,000/- to the credit of Crime No.463 of 2023, now pending on the file of learned Judicial Magistrate II, Kallakurichi.

4. In view of that particular fact, anticipatory bail is granted to both the petitioners with a direction that each one of the petitioner should deposit separately a sum of Rs.1,00,000/- each to the credit of Crime No.463 of 2023, now pending on the file of Judicial Magistrate No.II, Kallakurichi. On such deposit, the learned Judicial Magistrate may invest a sum of Rs.50,000/- each in a fixed deposit and pay a sum of Rs.50,000/- out of the two deposits each totally Rs.1,00,000/- to the de facto complainant on proper undertaking and acknowledgement. Finally after trial, if the present petitioners are acquitted then the amount of Rs.50,000/- together with interest may be handed over back to the petitioners herein. If the petitioners are convicted, then the amount may be handed over to the de facto complainant. The learned counsel stated that the petitioners are also innocent and it is the 1st accused actually caused loss to the de facto complainant. But since there is also a charge under Section 120(b), each one of them, would be equally liable for the offence.

5. 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 learned **Judicial Magistrate No.II, Kallakurichi**, on condition that the petitioners each 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 deposit a sum of Rs.1,00,000/- to the credit of Crime No.463 of 2023, on the file of learned Judicial Magistrate II, Kallakurichi.

[c] the petitioners to appear before the respondent police **every day at 10.30 a.m, for a period of two weeks and thereafter** as and when required for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.



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[f] 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]**.

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

03.11.2023

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