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Crl.O.P.Nos.23122, 23129, 23136 & 24308 of 2023

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and

Crl.M.P.Nos.17123, 17122, 17121 & 17667 of 2023

C.V.KARTHIKEYAN, J.

The petitioners herein seek anticipatory bail in Crime No.348 of 2023 and 522 of 2023 registered by the respondent Police.

2.Though all the four petitions are filed seeking anticipatory bail relating to two separate First Information Reports in Crime No.348 of 2023 and Crime No.522 of 2023 registered by the respondent police, since the facts overlap and since arguments were also advanced with respect to both the First Information Reports and the arguments tend to indicate that there is direct connection between the offences relating to which the complaints had been lodged, a common order is passed.

3.The 5th accused in the First Information Report in Crime No.348 of 2023 has filed Crl.O.P.No.24308 of 2023. The said First Information Report had been registered under Sections 448, 392, 506(ii) IPC @ under Sections 448 and 395 IPC. The First Information Report had been registered



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on 27.08.2023.

4.The 1st, 3rd and 4th accused in Crime No.522 of 2023 registered under Sections 448, 294(b), 323, 354, 384 and 506(1) IPC have filed Crl.O.P.No.23129 of 2023, Crl.O.P.No.23136 of 2023 and Crl.O.P.No.23122 of 2023. The provisions had been subsequently altered to Sections 448, 294(b), 323, 354, 394, 395 and 506(i) IPC.

5.All the two First Information Reports had been registered owing to the various transactions concerning a property belonging to one Dhandapani who is the 1st accused in Crime No.348 of 2023 and whose daughter is incidentally the defacto complainant in Crime No.522 of 2023.

6.It is to be noted that this particular property and the title deeds relating to the said property had been the subject matter of mortgage with the defacto complainant in Crime No.348 of 2023.

7.The First Information Report in Crime No.348 of 2023 had been registered on a complaint lodged by the defacto complainant alleging that the



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1st accused Dhandapani had engaged several other persons including the 5th accused who has now filed Crl.O.P.No.24308 of 2023 and the accused entered into his house and tried to take away the documents.

8.It is stated that subsequently, the daughter of Dhandapani had given a complaint that several persons entered the house where she was staying at Mamallapuram and claimed that they wanted to search the place for some documents and had been sent by her father Dhandapani and then completely ransacked the house and had taken away several documents and cheques. This has led to registration of First Information Report in Crime No.522 of 2023. The investigation later revealed that the persons who entered into the house were not sent by her father Dhandapani but rather by the defacto complainant in Crime No.348 of 2023.

9.The narration of these two incidents therefore brings about a close nexus between the two incidents.

10.In Crime No.348 of 2023, it is stated that the several of the accused had been either granted bail or anticipatory bail.



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11.The learned counsel for the 5th accused who has filed Crl.O.P.No.24308 of 2023 stated that there are no previous cases as against the petitioner and claims that the petitioner is innocent of the allegations raised and therefore urged that this Court should grant anticipatory bail. It is also stated that the defacto complainant had been involved in several other cases, which was observed by my learned Predecessor while examining earlier anticipatory bail application. However, an intervening petition has also been filed. There is no representation on behalf of the intervenor. The respondent have filed a counter affidavit, wherein they have very specifically stated that the petitioner in Crl.O.P.No.24308 of 2023 was physically present at the scene of occurrence and his face had been identified through verification of CCTV camera. It is therefore stated that the petitioner being directly involved in the offences registered in Crime No.348 of 2023, anticipatory bail should be rejected.

12.With respect to the averments in Crime No.522 of 2023, the learned counsel for the petitioner, who appeared through video conference stated that the petitioners are innocent of the offences and stated that the



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entire complaint was a counter blast of an earlier complaint given in Crime No.348 of 2023 and also stated that all the other accused had been granted bail or anticipatory bail. It is stated that the entire issue was a dispute over land and it is asserted that the defacto complainant in Crime No.348 of 2023 had advanced money to the 1st accused in Crime No.348 of 2023 who is also incidentally the father of the defacto complainant in Crime No.522 of 2023. On those grounds, it is urged that anticipatory bail should be granted.

13.The learned counsel appearing on behalf of the intervenor very strongly objected for consideration of any relief to the petitioners by stating that, various persons entered into the house at Mahabalipuram and had taken away documents and also negotiable instruments and in this regard, they had also taken away cheques of an account which had been closed about two years back and without that knowledge, had forged the signature of the father of the defacto complainant and had presented the cheque of payment to the bank. Those cheques were returned with a note that the signatures had been forged. The learned counsel stated that the accused have acted upon the documents which had been stolen and also stated that much damage had been caused to the house at Mahabalipuram and therefore, very seriously objected



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to the grant of anticipatory bail to the petitioners.

14.A counter affidavit had been filed on behalf of the respondent/Investigating Officer and it is stated that the investigation is still in progress and that the accused had been identified by viewing the CCTV camera and also stated that caller ID will have to be examined. On a preliminary verification revealed that telephone calls from Egmore had emanated to Mahabalipuram and therefore, it is asserted by the learned Government Advocate (Criminal side) that the accused/defacto complainant in Crime No.348 of 2023 was directly involved in the said offence. It is also stated that there are several cases pending against the petitioners who have now sought anticipatory bail. Therefore, relief of anticipatory bail is very seriously objected.

15.I have given my careful consideration to the arguments advanced and perused the records.

16.This is a case where a property which had been mortgaged had been taken advantage by the mortgagee/defacto complainant in Crime No.348 of 2023 and there has been a direct attempt to take control of the said



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property. It is trite to point out that a mortgage deed does not transfer title but only gives a right to possess. But however, the documents of title appear to have been taken by the defacto complainant in Crime No.348 of 2023. On the first occasion, the 1st accused therein had entered into the office of the defacto complainant and it is stated that he had attempted to take away the documents on the guise that there was a prospective purchaser for the property. The matter could have rested there. But unfortunately the defacto complainant in Crime No.348 of 2023 had further escalated the issue by sending over various other accused to the farm house of the defacto complainant, where the daughter of the 1st accused in Crime No.348 of 2023 was residing and there, they committed the offence of ransacking the entire house and taking away documents and negotiable instruments in the form of cheques. That they had also taken away the documents cannot be a matter of any further debate, since they had the audacity to present cheques for payment before the bank by forging the signature of the holder of the account. The cheques were naturally returned as the signatures were found to be different from the signature of the actual holder of the account.

17. One of the grievances raised by the learned counsel for the



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intervenor is that one of the cheques was for a sum of Rs.2/-crores. It is therefore contended that there was a direct theft of documents. These are facts which are borne on the records.

18.The defacto complainant in Crime No.348 of 2023 who himself, ass observed by learned Predecessor in an earlier order, has several cases against him of similar nature.

19.It appears to be an offence like a pendulum, swinging here and there with all parties trying to take control of land and of the documents. For this purpose, they had each engaged contract persons.

20.The role of the petitioner in Crl.O.P.No.24308 of 2023 is evident. It is stated in the counter that his face has been identified in the CCTV camera.

21.The roles of A1, A3 and A4 who seek anticipatory bail in Crime No.522 of 2023 is also evident. The investigating agency has filed a counter that they had been identified during the course of investigation.



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22.The fact that the other accused had been granted bail or anticipatory bail will not come to their advantage. The investigation will have to be conducted and documents will have to be verified and cheques which had been taken will have to be recovered. The ultimate object behind all these offences will have to be determined.

23.In view of all these factors, I am not inclined to grant anticipatory bail any of the petitioners. Accordingly all the Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

17.11.2023

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