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Crl.O.P.No.23497 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Section 420 of IPC in Crime No.495 of 2023, seeks anticipatory bail.

2.It is the case of the prosecution that the petitioner, Building Contractor had received a sum of Rs.7,50,000/- and had promised to build a house to the defacto complainant. He only put the basement. He did not put up any construction. This statement by the respondent is refuted by the learned counsel for the petitioner. But however, the defacto complainant, as a fact, had to engage another contractor to complete the construction. In this manner, it is the stand of the learned counsel for the intervener that, he suffered a loss by making payment to the petitioner herein and also settled further additional expenditure to the other contractor, who had completed the building.



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3.However, it is the case of the learned counsel for the petitioner that the petitioner had put up the construction till the lentil stage. At that time Covid – 19 Pandemic came down and there was a complete lock down and there cannot be any sale of material, workers could not be engaged, construction could not be started, no work could be done, there was a lock down throughout the country. It is also stated that consequently, there was a delay in putting up the construction. The learned counsel for the petitioner states that though in the FIR, it is claimed that a sum of Rs.10,50,000/- is due, only a sum of Rs.3,00,000/- is due.

4.There is also one incidental issue of a cheque being issued by the petitioner herein to the defacto complainant. The cheque was issued. It was returned unpaid. But the reason given by the learned counsel for the petitioner is that, it was because of merger of banks and therefore the account was not operable.



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5.At any rate, taking all these factors into consideration, this Court is inclined to grant anticipatory bail to the petitioner, **on condition that he should deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the credit of Crime No.495 of 2023 before the learned Judicial Magistrate – I, Mayiladuthurai, on or before 05.01.2024, which shall be retained in fixed deposit and final orders passed on conclusion of trial.**

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate – I, Mayiladuthurai, on condition that the petitioner shall execute a 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:



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[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 daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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 learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner 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.

01.12.2023

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