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Crl.O.P.Nos.23383, 23385 & 23386 of 2023

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C.V.KARTHIKEYAN, J.

The 1st accused has filed Crl.O.P.No.23386 of 2023, the 2nd accused has filed Crl.O.P.Nos.23383 of 2023 and the 3rd accused has filed Crl.O.P.No.23385 of 2023.

2. The petitioners herein seek anticipatory bail in Crime No.363 of 2023 registered by the respondent Police for the offences under Sections 406 and 420 IPC on a complaint given by the defacto complainant, alleging that the 1st accused had entered into an agreement of sale with him and he had paid a sum of Rs.5,00,000/- as advance. However, the defacto complainant later found that document of the title had actually been mortgaged and therefore, he could not get proper title even if the property is sold. In the meanwhile, the 1st accused said to have executed a power of attorney in favour of the 3rd accused.

3. The only issue now is the executability of the agreement of sale. The complaint had however been lodged on the ground that, since the original documents are not available, the defacto complainant had been lured



Crl.O.P.Nos.23383, 23385 & 23386 of 2023

in the executing the agreement of sale. It is stated that the 2nd accused is an advocate who was present when negotiation took place.

4. Taking all these facts into consideration even though the defacto complainant has filed three intervening petitions in each one of the three petitions, anticipatory bail is granted to all the three petitioners, directing the petitioners to either jointly or separately or in any other manner but totally deposit a sum of Rs.1,50,000/- to the credit of the crime No.363 if 2023 in which the First Information Report had been lodged before the learned X Metropolitan Magistrate, Chennai-8. On deposit of such amount, the learned X Metropolitan Magistrate, Chennai-8 may retain the same and pass final orders at the time of the conclusion of the trial.

5. If the petitioners/accused are acquitted, the amount may be returned to the accused. If the petitioners/accused are convicted, the amount may be paid back to the defacto complainant. Even if anyone of the petitioners/accused are convicted, then the amount is to be handed over to the defacto complainant. Till the completion of trial, the learned X Metropolitan Magistrate, Chennai-8 may deposit the amount in any interest bearing account. On this condition, the anticipatory bail is granted to the



Crl.O.P.Nos.23383, 23385 & 23386 of 2023

petitioners.

6. 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 X Metropolitan Magistrate, Chennai-8** on condition that the petitioners shall 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 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 petitioners shall either jointly or separately or in any other manner but totally deposit a sum of **Rs.1,50,000/-** to the credit of the crime **No.363 if 2023** in which the **First Information Report** had been lodged before the **learned X Metropolitan**



Crl.O.P.Nos.23383, 23385 & 23386 of 2023

Magistrate, Chennai-8. On deposit of such amount, the learned X Metropolitan Magistrate, Chennai-8 may retain the same and pass final orders at the time of the conclusion of the trial.

If the petitioners/accused are acquitted, the amount may be returned to the accused. If the petitioners/accused are convicted, the amount may be paid back to the defacto complainant. Even if anyone of the petitioners/accused are convicted, then the amount to be handed over to the defacto complainant. Till the completion of trial, the learned X Metropolitan Magistrate, Chennai-8 may deposit the amount in any interest bearing account.

[c] the petitioners shall report before the respondent Police, once a week for a period of two weeks and thereafter, as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in



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CrI.O.P.Nos.23383, 23385 & 23386 of 2023

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]**;

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

30.10.2023

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Crl.O.P.Nos.23383, 23385 & 23386 of 2023

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2/2



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Crl.O.P.Nos.23383, 23385 & 23386 of 2023