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Crl.O.P.No.27694 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.27694 of 2023

I.Asok Kumar

...Petitioner

Vs.

The State represented by
The Inspector of Police,
Kovilpalayam Police Station,
(Crime No.503 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in FIR in Crime No.503 of 2023 on the file of the respondent police.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.S.Senthil
For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)

ORDER

The petitioner in Crime No.503 of 2023 registered by the respondent Police for the offences under Sections 147, 148, 294 (b), 448, 387, 506 (ii) r/w 109 IPC and Section 3 (1) TNPPDL Act, and remanded to judicial custody on 25.11.2023 seeks bail.



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2.The defacto complainant has also entered appearance and has also filed an application seeking the right of being heard.

3.It is the contention of the learned Senior Counsel for the petitioner herein that the petitioner herein had lent a sum of Rs.95/-Lakhs to the defacto complainant for purchase of land. The land was not purchased and the amount was not returned. It had been stated in the complaint lodged by the defacto complainant that on the instigation of this petitioner/A1, the other accused had entered into the farm lands of the defacto complainant and damaged the trees, killed the ducks and created ruckus and which led the defacto complainant to transfer a sum of Rs.25/-Lakhs to the complainant herein and thereafter, they had left the place. The other accused are still absconding.

4.The learned counsel for the intervenor stated that it is this petitioner who had instigated the other accused for causing such damages to his farm land. On the side of the respondent, the learned Government Advocate (Crl.Side) had also affirmed the facts and stated that a requisition has been given to an appropriate authority to assess the damages caused.



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5.The learned Senior Counsel appearing on behalf of the petitioner however stated that the petitioner herein had lent a sum of Rs.95/- Lakhs on the promise that land would be purchased. Since there was no purchase/sale of land, naturally, the amount will have to be returned back by the defacto complainant. The other facts have been denied and disputed.

6.Taking all the factors into consideration and the period of incarceration and also the conviction aspect that keeping the petitioner in incarceration is not going to act to the advantage of the defacto complainant in any manner except the pleasure of knowing that the first accused is in jail, since the amount transacted between two of them has to be settled at some point of time, I would grant bail to the petitioner subject to the following conditions.

7. Accordingly, the petitioner is ordered to be released on bail on condition to 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 **District Munsif Cum Judicial Magistrate Court, Annur**, and on further conditions that:



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[a] 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 everyday at 10.00 a.m. until further orders.

[c] the petitioner is directed to deposit a sum of Rs.20,000/- to the credit of the crime No.503 of 2023 and the learned District Munsif Cum Judicial Magistrate Court, Annur, Coimbatore, may hand over it to the defacto complainant.

[d]the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness 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 accordance with law as if the conditions have been imposed and the petitioner released on



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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.

12.12.2023

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To

- 1.The District Munsif Cum Judicial Magistrate Court, Annur.
2. The Inspector of Police,
Kovilpalayam Police Station,
(Crime No.503 of 2023).
- 3.Central Prison, Coimbatore.
- 4.The Public Prosecutor, Madras High Court.

C.V.KARTHIKEYAN, J.



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