



Crl.O.P.No.5205 of 2024

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C.V.KARTHIKEYAN, J.

The Petitioners/A1 and A2 in Crime No.216 of 2021 registered by the respondent police for the offences under Sections 406, 420, 506(1) and 34 IPC, seek anticipatory bail.

2. It is the case of the prosecution that the defacto complainant had agreed to sell his entire stock of silver articles and bullions worth about Rs.1,10,35,566/- (Rupees One Crore Ten Lakhs Thirty Five Thousand Five Hundred and Sixty Six only) in favour of the Petitioners herein. It is also stated that an invoice had been raised. It is also stated that the sales had been effected but the Petitioners had not settled the amounts. It was under those circumstances that the complaint was lodged and the First Information Report came to be registered.

3. It is stated by the learned senior counsel appearing on behalf of the Petitioners that on conclusion of investigation, the Investigating Officer had filed a final report dropping the charges. The defacto complainant had filed a Protest Petition which came up for consideration before the learned



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Metropolitan Magistrate for CCB and CBCID Cases at Egmore, Chennai.

The learned Metropolitan Magistrate had directed further investigation under Section 173(8) of the Code of Criminal Procedure. Consequent to that particular order, notice had been directed to the Petitioners to appear for the Investigation. This had prompted them to file the present application seeking anticipatory bail.

4. The learned senior counsel for the Petitioners stated that since investigation had been completed in the first instance and the Petitioners had been exonerated of all the charges, the Petitioners should be granted protection when they are asked to appear again on the directions of the learned Metropolitan Magistrate to conduct further investigation. This Court cannot enter into the zone of examining the facts as alleged by the defacto complainant and as disputed by the Petitioners herein. They are now to be investigated by the Investigating Officer. Any observation of facts could impinge the mind of either the Investigating Officer or the learned Magistrate.



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5. Therefore, let me consciously refrain from entering into any discussion on facts except to state that the issue surrounds the allegation of sale of silver and bullions articles and to the allegation of non-payment of money towards such sale.

6. Based on the fact that on the earlier occasion, the Investigating Officer had dropped the charges, this Court is inclined to grant anticipatory bail to the Petitioners subject to the following conditions. **If it is noted that the 1st petitioner is not co-operating during the investigation by divulging all the information known to him, either the defacto complainant or the respondent are at liberty to seek for any further orders.** 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 CCB & CBCID Metropolitan Magistrate, Egmore, Chennai**, 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



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for anticipatory bail shall stand dismissed and on further conditions 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 1st petitioner shall report before the respondent police daily at 10.30 a.m., until further orders and the 2nd petitioner shall report before the respondent police once in a week i.e., on every Saturday at 10.30 a.m. for a period of three weeks and thereafter, as and when required for the interrogation. If it is noted that the 1st petitioner is not co-operating during the investigation by divulging all the information known to him, either the defacto complainant or the respondent are at liberty to seek for any further orders.

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

[d] the petitioners 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



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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]**.

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

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