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Crl.O.P.No.7168 of 2024

T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offences punishable under Sections 406 and 420 IPC in Crime No.190 of 2024 on the file of the respondent/police, seeks anticipatory bail.

2.It is the case of the prosecution that the defacto complainant is working as an Assistant Manager in a private company running in Ramapuram DLF Building. The petitioner was the co-employee of the defacto complainant. The petitioner brought one Kannan to the defacto complainant and told that the said Kannan was in trouble regarding his property and he asked the defacto complainant to help him financially. Hence the defacto complainant took a personal loan of Rs.2,50,000/- from his bank account and gave it to the said Kannan in November, 2015. Kannan agreed to pay the EMI amount every month and if Kannan fails to pay the EMI amount the petitioner agreed to pay it. Both the petitioner and the said Kannan with the intention of defrauding the defacto complainant when the EMI loan was about to expire in November 2019. Towards the end of the month, both the petitioner and the said Kannan decided to cheat the defacto complainant, asked him to get a loan of Rs.10,00,000/- from

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the bank for their profit. The defacto complainant believed that they had already paid the money properly and trusted them and did a top up in the bank and paid the money to the petitioner Bank Account, which is a total EMI of 72 months. Out of which they sent only the 11 months EMI amount through the defacto complainant's account. By not paying the remaining 61 months EMI amount of Rs.1,56,884/-, both the petitioner and Kannan are using it for their personal gain and are deceiving the defacto complainant. Thus the EMI amount is deducted from the defacto complainant's salary account. Due to this the defacto complainant's family is suffering. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that he had received money from the defacto complainant through various bank transactions and further repaid the same through bank transactions and there are account statement to support the same. The petitioner had transferred the EMI of Mr.Kannan to that of the defacto complainant for a period starting from 01.03.2016 to 14.10.2019 to a sum of Rs.6,15,860/-. The petitioner is a law abiding citizen and he has been falsely implicated in this case. He has nothing to do with the alleged offences. He is ready to abide by any condition that may be imposed by this Court. Hence, the learned counsel prays to grant

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anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl. Side) submitted that both the petitioner and Kannan are following the modus operandi by instigating others to borrow loan and not paid the same. Hence he vehemently opposed for grant of anticipatory bail to the petitioner.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, the petitioner is directed 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, Thiruvottiyur, 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

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arrest the petitioner, 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakh Only) to the credit of Crime No.190 of 2024, before the concerned Magistrate within a period of three weeks from the date on which the order copy made ready and on such deposit, the defacto complainant is permitted to withdraw the said amount on filing undertaking affidavit and proper identification and acknowledgment;

(c) the final order in respect of the said deposit shall be passed by the learned trial judge at conclusion of trial;

(d) the petitioner shall appear before the respondent police as and when required;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) the petitioner shall not abscond either during investigation or trial;

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(g) 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 Judge himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8.Post the matter **“for reporting compliance”** on **07.06.2024**.

18.04.2024

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