Crl. O.P. No.22013 / of 2024

P. DHANABAL.J.,

The petitioner / Accused No.3, who apprehends arrest in the hands of the respondent police for the offences punishable under Sections 120-B, 406, 420, 468, 471, 365, 368 and 506(i) of IPC in connection with the Cr. No.20 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that this petitioner along with other accused have cheated a sum of Rs.4.20 crores under the guise of investment in Koval Buildery business and thereafter, when they were asked about the said money by the defacto complainant, they threatened and only repaid the part of the amount. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner for the alleged offences under Sections 120-B, 406, 420, 468, 471, 365, 368 and 506(i) of IPC. According to the prosecution, this petitioner along with other accused have cheated a sum of Rs.4.20 crores under the guise of investment in Koval Buildery business and thereafter, when they were asked about the said money by the defacto complainant, they threatened

and only repaid the part of the amount. In fact, false case has been foisted against him. Already a Suit in O.S. No.206 of 2023 is pending before the Court, Coimbatore and after filing the Suit, the present FIR has been registered only as a counter blast for the said civil suit. The petitioner has not at all committed any offence and already anticipatory bail was granted to four other co-accused and hence prayed for the grant of anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor would submit that the accused conspired together and defrauded the defacto complainant and created a fabricated document dated 11.11.2021 by forging his signature to the effect that a sum of Rs.1,50,00,000/- was paid to him. Further by using such forged document as genuine and also with an intent to use the Court proceedings as a tool to cheat the defacto complainant, the 2nd accused named Jayakumar has filed a Suit in O..S. No.206 of 2023 on the file of learned IV Additional District Judge, Coimbatore. In fact, the father of the defacto complainant namely Govindasamy has gifted 6.83 acres of land to the defacto complainant by virtue of registered settlement deed. In turn, the defacto complainant sold the property to third parties and thereafter, the defacto complainant's father had given a complaint as

against the defacto complainant. While so, the accused no.1, introduced 2 and 3 accused and all of them represented that they are having connections with police officials and the police would registered the case against the defacto complainant and under the guise of helping the defacto complainant, they obtained money from him to the tune of Rs.4.2 crores and thereafter, he came to know that the complaint given by his father was closed by the police officials for the reason that it is the civil dispute, but by suppressing the same, all the accused persons received Rs.4.2 crores from the defacto complainant and after knowing that, the defacto complainant approached the accused for repayment of the said amount, the accused agreed to repay and the A2 paid an amount of Rs.1 crore to the defacto complainant and thereafter on 08.09.2021, paid a sum of Rs.40 lakhs, on 14.09.2021, a sum of Rs.10 lakhs was paid and further payment of Rs.20 lakhs was also paid and in total, Rs.1,70,00,000/- was paid by the 2nd accused. Thereafter, the 2nd accused filed a civil suit in O.S. No.206 of 2023. Subsequently, on 16.05.2022, a sum of Rs.9,50,000/- was paid by the 2nd accused. Thereafter, all of a sudden, all the accused conspired together and created a forged document dated 11.11.2021 as if the defacto complainant had executed a sale by forging his signature in the said document. The accused mentioned total amount received by them as

Rs.3,80,00,000/- instead of the actual amount of Rs.4.2 crores and also in the said agreement, there is a mention that the defacto complainant has received Rs.1.5 crores from the 2nd accused and with an intent to cheat the defacto complainant they created the said agreement to the tune of Rs.1.9 crores. Therefore, he lodged a complaint and now the case is under investigation and hence prayed to dismiss the petition.

5. The learned Government Advocate (Criminal Side) would submit that huge money is involved in this case and the petitioner and others have cheated a sum of Rs.4.2 crores from the defacto complainant and only Rs.1.79 crores alone was paid by the accused and also created forged documents as if the defacto complainant executed an agreement to the tune of Rs.3.8 crores and the defacto complainant has received Rs.1.5 crores from the accused, that investigation is not yet completed and hence he strongly opposed to grant anticipatory bail to the petitioner.

6. Heard both sides and perused the materials available on record.

7. Considering the rival submissions on either side, considering the fact that there is no specific overt act as against the petitioner in respect of the alleged forged documents and even as per the FIR, the 2nd accused has

repaid the part of the amount, that there is a money dispute between the parties, that there is no previous case pending against the petitioner, that there is a civil suit pending between the parties and also considering the fact that the alleged occurrence is said to have taken place in the year 2021, but the complaint was lodged only in the year 2023 and there is a delay in lodging the complaint, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions.

7. 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 **Judicial Magistrate Court No.VI, Coimbatore o**n condition that the petitioners shall each 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 learned Magistrate concerned and on further condition that:

[a] the petitioner **shall report before the respondent police daily at 10.00 a.m. until further orders;**

[b] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to

any police officer;

[c] the petitioner shall not leave India without the previous permission of the Court;

[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 269 B.N.S.2023.

03.10.2024
[3/4]

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To

1.The Judicial Magistrate Court No.VI, Coimbatore
2. The Public Prosecutor, High Court, Madras.
3.The Inspector of Police, DCB Police Station, Coimbatore.

P.DHANABAL,J
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03.10.2024
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