Crl. O.P. No.22755 / of 2024

P. DHANABAL.J.,

The petitioner / Accused-3, who apprehends arrest in the hands of the respondent police for the offence punishable under Section 120-B, 406 and 420 of IPC in connection with the Cr. No.26 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant mortgaged his property for a sum of Rs.67 lakhs in the Axis Bank through his friend Sivaraj Babu and he approached the said Sivaraj Babu to help him in repaying the said loan and the said Sivaraj Babu and one Sivakumar approached the defacto complainant and represented that they would help him in repaying the loan and also promised to get defacto complainant a sum of Rs.23 lakhs and they had jointly repaid the said loan amount in the Axis Bank and the mortgage of the defacto complainant was redeemed, in turn, after redemption, the said Sivakumar took possession of the title document of the property and induced the petitioner to enter into partnerhip agreement on 22.02.2018 and started a business under the name and style of Universal Impex and got signature of the defacto complainant in empty pre-dated stamp papers and a current account was created in the

name and style of Universal Impex in Allhabad Bank, Thennampalayam Branch, that after the completion of loan process, the defacto complainant was given Rs.27 lakhs and asked to maintain Rs.90 lakhs in the bank account. Thereafter, to the shock and suprise, the defacto complainant received a letter dated 05.10.2015 that the company has to pay Rs.4 crores to the bank for the loan obtained and additional amount of Rs.30 lakhs as Adhoc amount. Then only, the defacto complainant came to know that the accused had jointly and severally committed fraud against the defacto complainant and a sum of Rs.1,59,00,000/- was transferred to the account of one Praveena, friend of Sivakumar and when the defacto complainant asked the above said acts of the accused, he was threatened by all the accused including this petitioner. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner and others for the offences under Sections 120-B, 406 and 420 of IPC. The case of the defacto complainant is that, he mortgaged his property for a sum of Rs.67 lakhs in the Axis Bank through one Sivaraj Babu and thereafter, the defacto complainant approached the said Sivaraj Babu to help him in repaying the loan and further, the defacto complainant was

approached by the said Sivaraj Babu and one Sivakumar by representing that they would help him in repaying the loan and promised to get loan for a sum of Rs.23 lakhs computing to Rs.90 lakhs in total, thereafter the defacto complainant came to know that the property of the defacto complainant was mortgaged for Rs.4 crores in the bank and Rs.1.59 crores was transferred to the account of one Praveena, friend of Sivakumar. But infact, the above said facts are false, that the defacto complainant has suppressed the material facts, that the defacto complainant already filed a complaint against the petitioner and other accused before the respondent police and the petitioner filed a Crl.O.P. No.15871 of 2023 before this Court for not to harass the petitioner during the course of investigation and the same was disposed of and now, the defacto complainant has again preferred the present complaint with a similar set of allegations with malafide intention, that the petitioner is noway connected with the alleged transactions as claimed by the defacto complainant, that the defacto complainant also filed a petition in S.A. No.3/2020 before the Debts Recovery Tribunal, Coimbatore challenging the possession notice and sale notice under SARFAESI Act, that already A1, A2 and A6 were secured and A1 and A6 were released on bail, that the alleged dispute had arisen out of contract and hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned counsel for the intervenor would contend that the this petitioner along with others have cheated the defacto complainant under the guise of repaying the loan for Rs.67 lakhs, but instead, they obtained loan for Rs.4 crores and a sum of Rs.1.59 crores was transferred to one Praveena, friend of one of the accused Sivakumar and the accused failed to repay the amount and also they also threatened to murder the defacto complainant and the accused persons have cheated various people to the tune of Rs.200 crores and committed fraud. Therefore, he is not entitled to anticipatory bail and hence, he prayed to dismiss the petition.

5. The learned Government Advocate (Criminal Side) would submit that the defacto complainant had approached the petitioner and others for obtaining loan and thereby, mortgaged his property before the bank for a sum of Rs.67 lakhs, but the petitioner and others have obtained loan for Rs.4 crores and thereby, cheated the defacto complainant and when the defacto complainant asked about the same, they caused criminal intimidation and therefore, the defacto complainant lodged a complaint before the respondent police and the respondent police registered a case in

Cr. No.26 of 2023 and now the case is under investigation. Hence he strongly objected 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 are money dispute pending between the parties and the defacto complainant himself, subjected the property into mortgage for obtaining loan, that already A1 and A6 were granted bail, that the defacto complainant also filed proceedings before the Debt Recovery Tribunal, Coimbatore challenging the possession notice and sale notice, that the FIR has been registered in the year 2023 and so far, the respondent police have not taken any steps to secure the accused, 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 learned **Judicial Magistrate No.II, Thiruppur** 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 learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police on daily at 10 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.

26.09.2024
[2/2]

mjs

To

1.The Judicial Magistrate No.II, Thiruppur
2. The Public Prosecutor, High Court, Madras.
3.The Inspector of Police, CCB-Tiruppur City.

P.DHANABAL,J
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