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Crl.O.P.No.22780 of 2023

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and Crl.M.P.No.16527 of 2023

C.V.KARTHIKEYAN, J.

The petitioner/A2 seeks anticipatory bail in Crime No.27 of 2023 registered by the respondent Police for the offences punishable under Sections 406 and 420 IPC r/w under Section 34 of IPC.

2. The petitioner is a land broker. The defacto complainant wanted to purchase land. For that purpose, one plot was identified and towards that, the defacto complainant had paid of Rs.5.20/- lakhs to this petitioner. But the title in that particular plot was not perfect and there was also a civil suit pending. Therefore, both the defacto complainant and this petitioner withdrew from the idea of purchasing that particular plot. Thereafter, the petitioner appears to have introduced one Thiyagu who stated that he was the owner of yet another plot.

3. It is stated by the learned counsel for the petitioner that the defacto complainant had verified the title documents of the new plot put up by Thiyagu, who is incidently A3 and thereafter, the sale deed had also been



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registered in favour of the defacto complainant in the year 2019. It is also stated that there are 5 accused and A1 had impersonated as the original owner Subba Rayudu. A2 is the petitioner and A3 is Thiyaagu who had identified the particular plot and A4 and A5 are witnesses to the documents.

4. The respondent had issued a notice under Section 41(A) Cr.P.C. to A4 and A5 and had called upon them to participate in the enquiry process.

5. It is also stated that after the present F.I.R in Crime No.27 of 2023 had been registered, the petitioner had returned back a sum of Rs.5/- lakhs to the defacto complainant. Additionally, he also appears to have issued two cheques. The credibility of both of them are suspect and either the instrument themselves are fake or the signature is not the usual signature of the drawer of the chequer. They are both for a sum of Rs.12/- lakhs each.

6. It is insisted by the learned counsel for the defacto complainant that the entire sale consideration was routed the accused by this petitioner.



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7. The learned Government Advocate (Crl. Side) stated that A3 had been arrested in this F.I.R. in Crime No.27 of 2023 on 11.05.2023 itself. There is no reliable information as to whether he had obtained bail or not. But at any rate, the statutory period of 60 days must have long since lapsed and even if on merits, he had not been granted bail he would certainly be entitled for statutory bail, the relief under Section 167(2) Cr.P.C.

8. Taking the case of this petitioner, the defacto complainant also had a responsibility to screen the title documents report before signing the sale deed as a purchaser. That particular document has brought about a binding contract between the defacto complainant and the vendors.

9. At any rate, since A3 had been arrested and two cheques had been issued, which are apparently either forged or fake, the issue of anticipatory bail alone will have to be considered. So far as the petitioner is concerned, he had returned back Rs.5/- lakhs which had been directly transferred to the petitioner.



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10. Taking all those factors into consideration, anticipatory bail granted and however directed the petitioner to deposit a sum of Rs.10/- lakhs to the credit of F.I.R. in Crime No.27 of 2023.

11. The learned counsels for the defacto complainant who are now two in number when there was only one, stated in one voice that the value of land is much higher. This Court is not a collection agent on behalf of either the defacto complainant or anybody. Only the bona fide of the petitioner to participate in the judicial proceedings alone could be ensured by this Court.

12. It is made clear that by such deposit, the petitioner herein cannot be termed to have admitted any of the allegations as against him.

13. However, taking all the other factors into consideration this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is 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 **Judicial Magistrate No.I, Poonamallee, Chennai**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties



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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 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 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 10.30 a.m., until further orders.

[c] the petitioner is directed to deposit a sum of Rs.10/- lakhs to the credit of Crime No.27 of 2023, before the learned Judicial Magistrate No.I, Poonamallee, Chennai, and on deposit of such amount, the learned Judicial Magistrate No.I, Poonamallee, Chennai, may retain a sum of Rs.5/- lakhs in an interest earning Fixed Deposit in any one of the Nationalised Banks and pass final orders on conclusion of trial. If the petitioner is acquitted, the amount together with accrued interest should be returned back to the petitioner. If the petitioner is convicted, the amount may be handed over to the defacto complainant. The balance amount of Rs.5/- lakhs is to be directly handed over to the defacto complainant.



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[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond 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 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.

14. Consequently, connected miscellaneous petition is allowed.

20.02.2024

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