



Crl.O.P.No.23094 of 2023

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C.V.KARTHIKEYAN,J.

The petitioners in Crime No.210 of 2023 registered by the respondent police for the offences punishable under Sections 406 and 420 of IPC seek anticipatory bail .

2. It is the case of the prosecution that a complaint was originally lodged against one Sakthivel who is one of the accused/A1 and against the petitioner's father-in-law Thilagarajan. They were arrested by the respondent police and remanded on 16.09.2023 and subsequently granted bail.

3. The case of the prosecution as given by the defacto complainant is that the petitioners herein, belong to Visvakarma Community and involved in gold business. It is stated that the defacto complainant had handed over 2.250 kgs of gold to all the accused who had promised to make them into new gold jewelleryes. It is the further



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case that the gold that had been handed over had been however melted into gold ingots and they have simply disappeared.

4. When A1 and A2 namely Sakthivel and his Father-in-law were arrested, the respondents were able to recover 6.8gms of gold. A1 had directly given a confession that the balance gold is in the possession of this particular petitioner.

5. The learned counsel for the petitioners stated that A1 had filed an application seeking to adjudicate himself as an insolvent and in the list of creditors he had not mentioned the name of this particular petitioner. But, this petitioner is not directly indebted to A1, but indebted to the defacto complainant. Both A1 and this petitioner, stand on the same footing, having received gold from the defacto complainant. The learned counsel for the petitioner also further stated that investigation has not been done as to the manner in which the defacto complainant came to be possessed with huge quantity of 2.250 kgs of gold and no documents have been recovered that he was actually in possession of



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such gold or that he had sufficient financial capability to possess such huge quantity of gold. It is also stated that no receipts have been produced for handing over the gold even or for possession of the gold. These are issues which have to be taken up during the course of investigation and the defacto complainant could always be cross examined on those particular aspects. It must be kept in mind that I am not conducting trial, but, only examining whether the petitioners are entitled to be granted anticipatory bail or not.

6. The criteria for grant of anticipatory bail is whether the petitioners' presence is required by the respondents for further investigation and whether the petitioners, if granted anticipatory bail would tamper and hamper the investigation. The respondents as on date have only one document namely the confession of A1, in which he had very clearly stated that the balance gold, is only available with this petitioner herein. During the pendency of this petition, which the learned counsel complained that has been going on for nine hearings, the petitioner had appeared before the respondent on the petitioner being



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granted interim protection to appear before the respondent when issued with notice under Section 41A of Cr.P.C. But, no materials have surfaced during the course of recording of the statements of the petitioners about the availability or whereabouts of the gold which, according to the defacto complainant had been handed over to all the accused persons.

7. The learned counsel for the petitioners also stated that subsequent to the registration of F.I.R, a team of police officials had entered into the house of the petitioners in a vehicle bearing Regn.No.PY-01-AC-2799 and had threatened the family members of the petitioners herein. The fact would not take the petitioners anywhere.

8. The learned counsel for the petitioners also stated that when the matter was adjourned on 12 occasions, the respondent had actually taken the petitioners into custody and when informed that the matter is pending, they had dropped the petitioners in the middle of the road and served them with notices under Section 41A Cr.P.C. These are all aspects of investigation and the procedure if found to be not to the liking of the



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petitioner or to the disadvantage of the petitioner then certainly he can take recourse in manner known to law. But, the central issue is answering the allegations that 2.250kgs of gold had been given and there had been recovery of only 680 grams of gold which is extremely minimal when compared to the total quantity of 2.250kgs.

9. The issue whether the defacto complainant had capacity to possess 2.250kgs of gold is a matter to be examined by the respondent and certainly whatever is the conclusion reached by the respondent they could be tested during the course of cross-examination. As on date, the confession of A1 very clearly reveals that the balance gold is available with the petitioner. The petitioner has not come forward to disclose same when issued with Notice under Section 41 A of Cr.P.C . Investigation have to be proceed for recovery of the gold. At this stage, since the investigation has not been completed, I am not inclined to grant anticipatory bail to the petitioner.



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10. Accordingly, this Criminal Original Petition is dismissed.

Vv

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Vv

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