



Crl.O.P.No.23467 of 2023

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C.V.KARTHIKEYAN, J.

The Petitioner/Accused in Crime No.774 of 2023 registered by the respondent police for the offences under Sections 406, 409, 420, 465, 468 and 471 IPC, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner was approached by the defacto complainant in the year 2014 for the purchase of house plot at Venkateswara Nagar, Kiskinda Road at Tambaram. It is stated that one other individual by name Pandi @ Pandi Ganesh was running a real estate business. This petitioner and the said Pandi @ Pandi Ganesh had quoted the consideration at Rs.26,00,000/- (Rupees Twenty Six Lakhs only) and this amount had also been paid by the defacto complainant.

3. Thereafter, there was an issue relating to the execution of the document since it was originally held out that one K.Manimegalai was the sole and absolute owner of the plot. But later, was found that she was only one of the co-owners and there were others who also exercised title over the said plot. A power of attorney had been executed and was then cancelled by the defacto complainant. The defacto complainant then sought for return of



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the amount paid i.e., a sum of Rs.26,00,000/- (Rupees Twenty Six Lakhs only) and since there was no undertaking forthcoming, he lodged a complaint leading to registration of First Information Report.

4. The matter had been pending before this Court for quite some time and this Court had directed the respondent to issue notice under Section 41A of Code of Criminal Procedure to all the parties concerned. It is stated that when the notices were so issued, the petitioner herein and the said Pandi @ Pandi Ganesh also appeared. A status report had been filed, wherein, it is stated that this petitioner had undertaken to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) and the said Pandi @ Pandi Ganesh had agreed to give a cheque for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only). But the said Pandi @ Pandi Ganesh is not an accused before this Court and therefore, this Court can never pass any orders as against him.

5. The learned counsel for the Intervenor pointed out that the statement in the status report that as a fact the petitioner and the said Pandi @ Pandi Ganesh owe a sum of Rs.26,00,000/- (Rupees Twenty Six Lakhs only) to the defacto complainant. But this Court cannot convert itself to a



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Court to extract money but can only impose certain conditions, so that, the accused does not abscond from the judicial process and participate in the trial process.

6. In view of that particular reasoning, this Court is inclined to grant anticipatory bail to the Petitioner with certain conditions that **the petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Crime No.774 of 2023 before the learned Judicial Magistrate No.I at Tambaram and on such deposit, the learned Judicial Magistrate No.I at Tambaram may hand over the said amount to the defacto complainant. However, it is made clear that such deposit is not an indication of admission of any of the allegations made by this petitioner. It is also made clear that the defacto complainant is at liberty to seek further damages to a compensation for recovery of money, provided, the said claim is not barred by any law or in a manner known to law.** 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 No.I, Tambaram**, on condition that the petitioner shall execute a bond for a



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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 arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions 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 deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Crime No.774 of 2023 before the learned Judicial Magistrate No.I at Tambaram and on such deposit, the learned Judicial Magistrate No.I at Tambaram may hand over the said amount to the defacto complainant. However, it is made clear that such deposit is not an indication of admission of any of the allegations made by this petitioner. It is also made clear that the defacto complainant is at liberty to seek further damages to a compensation for recovery of money, provided, the said claim is not barred by any law or in a manner known to law.

[c] the petitioner shall report before the Respondent



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Police daily at 10.30 a.m. for a period of three weeks and thereafter, as and when required for the interrogation.

[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.

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