



Crl. O.P. No.26490 of 2024

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P. DHANABAL.J.,

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The petitioners / Accused, who apprehend arrest in the hands of the respondent police for the offences punishable under Sections 418 and 420 of IPC in connection with the Cr. No.495 of 2013, seeks anticipatory bail.

2. The case of the prosecution is that the 1st petitioner obtained educational loan from the defacto complainant bank for a sum of Rs.7,50,000/- on 15.02.2008 and thereafter, obtained a further amount of Rs.3,90,000/- on collateral security of his property, for which, the 2nd petitioner herein stood as guarantor and they failed to return the loan to the defacto complainant bank.

3. The learned counsel for the petitioner would contend that the 1st petitioner obtained education loan to the tune of Rs.7,50,000/- on 15.02.2008 and thereafter, obtained a further amount of Rs.3,90,000/- by producing the collateral security of his property at Vyasarpadi, Chennai and for the said loan, the 2nd petitioner signed as guarantor. Based on a time barred sale agreement entered by the 1st petitioner, one Sampathkumar and Arockiyarani filed a Suit for specific performance in O.S. No.8028 of 2007 on the file of III Assistant City Civil Court and



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obtained an ex parte decree on 25.09.2008 and also filed an E.P. No.1201 of 2009 on the file of IX Assistant City Civil Court and got the sale deed executed on 12.12.2011 and registered the same. The petition to set aside the said ex parte order, filed by the 1st petitioner herein was dismissed. Further, the defacto complainant filed an O.A. No.259 of 2016 before the DRT-II, Chennai and obtained a recovery certificate on 03.08.2017 for a sum of Rs.11,76,253.34 and the said order was also an ex parte order. The petitioners did not receive any notice and the 1st petitioner left to Singapore and the 3rd petitioner went to United Kingdom for his higher education and only recently, they came to know about the registration of case against them, that even the petitioners, approached the defacto complainant bank, for settling the outstanding, but the then Manager demanded a huge sum of Rs.1,50,00,000/- for the loan amount of Rs.11,40,000/- and the petitioners are ready to repay the recovery certificate amount of Rs.11,76,253.34 with reasonable interest. They have no intention to defraud the bank and they are not aware of the ex parte decree. The petitioners are innocent persons and they are ready to abide by any condition imposed by this Court. Hence, the petitioners may be released on bail.



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4. The learned Government Advocate (Criminal Side) would submit that the petitioners 1 and 3 herein, have obtained education loan from the defacto complainant bank to the tune of Rs.11,40,000/-, for which the 2nd petitioner herein stood as guarantor, but they failed to repay the said loan. Hence the case was registered as against the petitioners. Hence he objected to grant anticipatory bail to the petitioner. However, he admitted that there is no previous case pending against these petitioners.

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

6. Considering the rival submissions on either side, considering the nature of offence charged against these petitioners, considering the fact that already there is money transactions between the parties in respect of educational loan, that there is no previous case pending against these petitioners and also the alleged occurrence took place in the year 2008 and the FIR was registered in the year 2013, but till now, the respondent police have not secured the accused, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days



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from the date on which the order copy made ready, before the

Metropolitan Magistrate Court for exclusive trial of CCB Cases,

Egmore, Chennai on 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 petitioners shall report before the respondent police on every Saturday at 10.00 a.m. for 8 weeks and thereafter as and when required for interrogation;

[b] the petitioners 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 them from disclosing such facts to the Court or to any police officer;

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

[d] the petitioners shall not abscond either during investigation or trial.



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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 269 B.N.S.2023.

25.10.2024

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P.DHANABAL,J
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To

- 1.The Metropolitan Magistrate Court for exclusive trial of CCB Cases, Egmore, Chennai.
2. The Public Prosecutor, High Court, Madras.
- 3.The Inspector of Police, Central Crime Branch, Bank Fraud Wing, Team-XII, Vepery, Chennai-600 007.



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