



Crl.O.P.No.28145 of 2024

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SUNDER MOHAN, J.

The Petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of IPC, in Crime No.22 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant had obtained loan from a Bank; that since he defaulted in the repayment of loan, SARFAESI proceedings were initiated by the Bank; that he approached A1, M.S.Ramesh Kumar who is the Ex-Director of Pandian Bank who promised that no action would be taken against the properties; that he represented that he knew a lawyer, the petitioner herein who would help them in the process; that A1 demanded a sum of Rs.15,00,000/- and accordingly, the defacto complainant deposited a sum of Rs.14,69,000/- to the account of A1. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is a practising advocate in Tambaram for about 22 years and that he was not aware of the alleged misrepresentation made by A1 and even



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admittedly, no money was transferred to the account of A2 and that he had only advised the defacto complainant in his professional capacity and no offence of cheating can be made out as against the petitioner. Hence, he prays for grant of anticipatory bail.

4.The learned Government Advocate (Crl. Side) submitted that according to the defacto complainant, a representation was made by A1; that money was transferred to the account of A1; that A1 is still absconding; and that the petitioner had spoken to the defacto complainant in a conference call with A1 and therefore, the complaint has been registered as against the petitioner as well.

5.Heard the learned counsel on either side and perused the materials.

6.Admittedly, even as per the complaint, the false representation was made by A1. The defacto complainant had deposited a sum of Rs.14,69,000/- into the account of A1. There is no evidence to suggest that A1 had transferred money to A2. A2 who is a lawyer by profession had advised the defacto complainant in his professional capacity.



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7. Considering the nature of allegations, the fact that A2 has not been benefited in the transaction admittedly; and that the custodial interrogation of the petitioner is not required for the purpose of investigation, this Court is inclined to grant anticipatory bail to the petitioner on the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Judicial Magistrate – II, Mayiladuthurai**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties 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:

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

[e] On breach of any of the aforesaid conditions, the learned



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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 BNS.

11.11.2024

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