

Crl.O.P.No.6124 of 2016**K.KALYANASUNDARAM, J.**

The petitioner, who is arrayed as A2, apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 338 IPC, in Crime No.768 of 2014, on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that the wife of the defacto complainant, viz., Sowmya was taking treatment at Ishwarya Women Hospital and Fertility Centre, Coimbatore and on 05.03.2014, she got delivery pain and she was admitted in the said hospital. A male child was born to her on the same day and the fourth accused had attended the delivery. Subsequently, the child was not given to the mother for three days and due to improper treatment, his eyes were affected and thereafter, the accused have manipulated the hospital records, which resulted in the registration of the case.

3. Mr.Ashok Kumar, learned Senior Counsel appearing for the petitioner would submit that the occurrence is said to have taken place in the month of March, 2014 and the petitioner is a lady doctor and she was running the hospital at Coimbatore and the wife of the Defacto

Complainant was treated by the fourth accused. The defacto complainant having felt that proper treatment was not given to his child, has approached the State Consumer Redressal Forum by filing O.P.No.150 of 2015 claiming compensation of Rs.50,00,000/- and the accused have been contesting the case.

4. The learned Senior Counsel further submitted that immediately after registration of the case, the fourth accused was granted bail by the Learned Judicial Magistrate, Coimbatore and the respondent has completed the investigation and also, laid a charge sheet, which is taken on file by the learned Judicial Magistrate No. III, Coimbatore in C.C.No.67 of 2016. It is further submitted that originally, the case was registered under the bailable offence and only at the time of filing the charge sheet, non-bailable offences were included with an ulterior motive.

5. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the case was registered in the year 2014 and after completing the investigation, the respondent police has filed a final report and the same is pending before the Learned Judicial Magistrate No.III, Coimbatore and it is posted on 20.04.2015.

6.Considering the above facts and circumstances of the case and also considering the nature of the allegation made against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance before the learned Judicial Magistrate No.III, Coimbatore and on her executing 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 the petitioner shall appear before the trial court without fail, except on those days, her absence is condoned by filing a petition under Section 317 Cr.P.C. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

8.The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

31.03.2016

gv/sms

K.KALYANASUNDARAM, J.

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