



Crl.O.P.No.2978 of 2023

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**T.V.THAMILSELVI, J.**

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 403, 420, 447 and 109 of IPC in Crime No.317 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners and the defacto complainant are relatives and business partners. Due to money dispute in their business, the first petitioner trespassed into the premises of the defacto complainant in his absence and taken away 615 kgs of silver, account books and bags from his house. Hence the complaint.

3. Learned counsel for the petitioners submitted that the petitioners are engaged in the business of manufacturing silver jewels in the name and style of 'Sre Lakshmi Narayana Jewels' from the year 2005 and it is a registered firm. Its manufacturing unit is situated in the premises of the defacto complainant. He further submitted that the



defacto complainant, who is the brother-in-law of the first petitioner, was only an employee in the unit not a partner, whereas, now, the defacto complainant claims 1/3<sup>rd</sup> share in the silver business, due to which there was a dispute between them. The petitioner in support of his contention has also produced the notarized receipt before this Court. Hence, he prays for grant of anticipatory bail to the petitioners.

4.Learned counsel for the defacto complainant submitted that the defacto complainant and the petitioners are the partners in the silver business. He further submitted that in the absence of the de-facto complainant, the petitioners have broke open the locker and taken away 615 kgs of silver. Immediately, the defacto complainant gave a complaint, but only after 40 days, the complaint was lodged with great difficulty. He further submitted that after marrying the sister of the first petitioner, the defacto complainant become one of the partners in the entire business and the manufacturing unit is also situated in the defacto complainant's premises. He further submitted that the petitioners have agreed to return 300 kgs of silver, but they have returned only 50 kgs of



Crl.O.P.No.2978 of 2023

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silver. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5.Learned Government Advocate (Crl.Side) for the respondent vehemently opposed for granting anticipatory bail to the petitioner stating that due to money dispute between the partners in the business, in the absence of the defacto complainant, the first petitioner trespassed into his premises and taken away 615 kgs of silve from his house. He further submitted under Section 41A of Cr.P.C., the petitioners were appeared before the respondent Police for enquiry, but the notarized receipt was not produced in front of the respondent Police.

6.In reply, the learned counsel for the petitioners on instructions submitted that the petitioners are jointly ready and willing to deposit a sum of Rs.10,00,000/- to the credit of Crime No.317 of 2022 and hence, he prays for grant of anticipatory bail to the petitioners.



Crl.O.P.No.2978 of 2023

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7. Heard the learned counsel for the petitioners as well as the learned counsel for the defacto complainant and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

8.Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioners are jointly ready and willing to pay a sum of Rs.10 lakhs to the credit of the Crime Number, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.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 from the date on which the order copy made ready, before the **learned Chief Judicial Magistrate, Salem**, on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, out of which, one must be a blood related surety, each for a like sum to the satisfaction of the



Crl.O.P.No.2978 of 2023

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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:

**[a] the petitioners shall jointly deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) to the credit of Crime No.317 of 2022 before the learned Chief Judicial Magistrate, Salem, within a period of two weeks from the date of receipt of a copy of this order and the defacto complainant is workout his remedy before the trial Court with regard to the withdrawal of the amount;**

[b] the petitioners 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;

**[c] the first petitioner shall report before the respondent police on alternative days at 10.30 a.m., until further orders and the petitioners 2 and 3 shall report before the respondent Police as and when required for interrogation;**



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CrI.O.P.No.2978 of 2023

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners 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 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]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

24.02.2023

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Crl.O.P.No.2978 of 2023

**T.V.THAMILSELVI,J.**

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**Crl.O.P.No.2978 of 2022**

**24.02.2023**