



CrI.O.P.No.3909 of 2023

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WEB CO **T.V.THAMILSELVI, J.**

The petitioner, who apprehends arrest for the alleged offence under Sections 452, 294(b), 506(ii), 354(A) of IPC r/w. Section 8 of POCSO Act in Cr.No.40 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the de-facto complainant is having two female children namely Sheri aged about 19 years and Dheeksha aged about 13 years. The de-facto complainant's husband namely one Vishal was employed at Vigro Polymers India Ltd., from 2009 and during his employment at the above said company, Vishal had also started his own company in the name and style of "Ashirwad Enterprises" and without quitting the earlier job, he also took care of his own company. During the year 2021, the defacto complainant and her husband were taken to Virgo Polymers India Ltd., situated at Shenoy Nagar in respect of an outstanding amount of Rs.2.05 Crores to be paid to the company by the de-facto complainant's husband and the petitioner being one of the employee of the earlier company has also threatened the de-facto complainant to sell their



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house to repay the amount and got signature from the said Vishal in various papers. Further, the petitioner and other accused persons have misbehaved with the victim girls, daughters of the de-facto complainant. Hence, this complaint.

3. Learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that, the co-accused persons were already granted anticipatory bail by this Court, vide order dated 31.01.2023 made in Crl.O.P.No.1722 of 2023. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submitted that admittedly there was a civil dispute in between the petitioner and other accused persons and the de-facto complainant's husband with regard to alleged misappropriation of company's funds to the tune of about Rs.3 Crores is pending. However, the present FIR is lodged by de-facto complainant based upon the statement given by their minor daughters, according to which, the petitioner along with other accused persons misbehaved with the daughters of the de-facto complainant, who are



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aged about only 13 and 19 years, due to the alleged misbehaviour of the petitioner and other accused persons, the girls were mentally depressed and they were given psychiatric treatment. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and also a perusal of the available record which reveals that previously, the de-facto complainant's husband was working in the company where the petitioner and the other accused persons were employed for monthly salary and there is some dispute between them. The husband of the de-facto complainant was said to have misappropriated the company funds to the tune of Rs.3 Crores and subsequently started another company in the name and style of "Ashirwad Enterprises" and when the said Vishal was questioned about the misappropriation on 17.06.2021, there was an undertaking letter given by the de-facto complainant's husband that, he is ready to settle the issue.

6. Fact also remains that the petitioner's company filed a suit for recovery against the de-facto complainant and their family members, notice



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was also served, their property was also attached on 30.12.2022. After receipt of the notice, the present FIR came into picture. The victim girls were examined by the investigation officer and 164 statement also recorded by Magistrate. Even a perusal of the 164 statements, the victims stated that on 17.06.2021 the accused persons abused them. But the fact remains that on that date itself, the parents of the victim girl were present in the same house. However, there is no explanation offered as to why the de-facto complainant had not given any complaint immediately against the company officials. Therefore, prima facie it reveals that due to the filing of the civil suit, the present FIR is lodged. Thus, the de-facto complainant is abusing the process of law. Her intention is clear that she is trying to register a case against the company officials under POCSO Act. The intent of the legislature of POCSO Act should not be misused to achieve parents' personal agendas and the Courts are not here to encourage such type of activities. Further, considering the fact that the co-accused persons were already granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner herein.

7. Accordingly, the petitioner is ordered to be released on bail in the



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event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **XIII MM, Egmore**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)**, with two sureties each **out of which one surety will be a blood related surety** 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 and on further condition that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police, daily at 10.30 a.m for a period of two months;

(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 Magistrate/ Trial Court is entitled to take



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appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the

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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]*; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

27.02.2023

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