



Crl.O.P.Nos.6073 & 6264 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120B, 294(b), 420, 409 and 506(i) IPC in Crime No.135 of 2023, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant James Philip, Vice President (Fraud, Risk and Litigation), M/s.Hitachi Payment Services Pvt., Ltd., is that they had obtained license from the Reserve Bank of India to operate ATM/CRM services for various banks. The defacto complainant has appointed many master franchisees to operate and maintain ATM/CRM services of their company and the petitioner/accused was also one such franchisee and during the business transactions, the petitioner/accused by playing fraud had misappropriated the amounts to the tune of Rs.1,15,54,500/- and cheated the ATM/CRM services. Hence the complaint.



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3. The learned counsel for the petitioner in both case would submit that the petitioner in Crl.O.P.No.6073 of 2023 is the husband of the 1st accused and the petitioners in Crl.O.P.No.6264 of 2023 are employees under the 1st accused. The 1st accused was a franchisee of the defacto complainant and due to technical glitch there was an error/omission in the statement of accounts, which has erroneously reflected as if the 1st accused had swindled a sum of Rs.1,15,54,500/-. The alleged occurrence is said to have been taken place during the period between 25.02.2020 and 14.02.2020 and that, earlier, the defacto complainant had given a complaint before the District Crime Branch (DCB), Kallakurichi District and the 1st accused had appeared before the DCB for enquiry on summons. He would further submit that in the meanwhile the 1st accused was arrested and when she filed a bail application the learned District Judge had imposed an onerous condition directing the 1st accused to deposit a sum of Rs.69,32.700/- to the credit of crime number and the 1st accused in order to buy peace, had deposited the said amount and has come out on bail. He would further submit that the entire case of the prosecution is borne out by records and as per the condition imposed.



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The 1st accused has deposited more than 60% of the alleged misappropriated amount. He would further submit that during the earlier enquiry conducted by the DCB, Kallakurichi, the petitioners were issued summons and they have also appeared for enquiry before the respondent. He would further submit that the petitioner in Crl.O.P.No.6073 of 2023, to show his bonafide, is ready and willing to deposit the original title deeds pertaining to two properties, which have been registered vide Doc.No.2846 of 2008 dated 24.6.2008 and Doc.No.2863 of 2008 dated 24.6.2008 on the file of the Sub-Registrar Office, Sankarapuram, and as on date the said properties are valued at Rs.1,40,00,000/-. He would reiterate that the case of the prosecution is borne out of records and the petitioners are ready to co-operate for the investigation. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police in both cases submitted that the petitioner is the husband of the 1st accused and petitioners in other case are employees of the main accused. The 1st and 2nd accused were appointed as franchisees



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for M/s.Hitachi Payment Services Pvt., Ltd., to operate ATM/CRM services for various banks whereas the accused by tampering with the machine had misappropriated amounts to the tune of Rs.1,15,54,500/-. However, he would submit that A1 was arrested and she has repaid Rs. 69,32,700/-. Hence, he would object for grant of anticipatory bail to the petitioners.

5. Mr.A.Ashwinkumar, learned counsel as intervenor for the defacto complainant in both case would submit that the accused by tampering with the machines had misappropriated to the tune of Rs.1,15,54,500/-. Hence, he would object for grant of anticipatory bail to the petitioners.

6. Heard both sides and perused the materials available on record including the FIR.

7. Considering the above facts and circumstances of the case and the submissions of either sides, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



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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 from the date on which the order copy made ready, before the **learned Judicial Magistrate, Sankarapuram**, on condition that the petitioners shall execute separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** each with two sureties each 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:

[a] 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 his Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner in Crl.O.P.No.6073 of 2023 shall deposit the original title deeds in Doc.No.8246 of 2008 dated 24.06.2008 and Doc.No.2863 of 2008 dated 24.06.2008 registered at SRO, Sankarapuram to the credit of Crime No.135 of 2023.

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of



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four weeks and thereafter, every Saturday at 10.30 a.m until further orders.

[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.

13.06.2023

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