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Crl.O.P.Nos.14356 and 14373 of 2023

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G.CHANDRA SEKHARAN, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under **Sections 294(b), 323, 324, 341 and 506(2) of IPC**, in Crime No.349 of 2023, on the file of the respondent police, seek anticipatory bail.

2. The learned counsel for the petitioners submitted that in a small dispute between the defacto complainant and the petitioners, the petitioners have been falsely implicated in this case. It is his further submission that the 3rd accused namely Beeshmar/petitioner in Crl.O.P.No.14356 of 2023, is a minor. Apprehending arrest, this petition is filed seeking anticipatory bail.

3. In response, the learned Government Advocate (Crl. Side) would oppose these petitions on the ground that, because of the indiscriminating attack on the defacto complainant, the defacto



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complainant suffered multiple fractures on his chest resulting in surgery.

Though he was discharged from the hospital, still he is suffering from pain and sufferings because of injuries and surgery.

4. Considered the submissions and perused the records.

5. The allegation in the FIR shows that on 11.06.2023, at about 2.45 p.m., when the defacto complainant's father was sleeping under a tree, the accused had beaten him with iron rod, stone and wooden log. The petitioners in Crl.O.P.No.14373 of 2023 are the co-accused 2 and 4 in this case. Petitioner in Crl.O.P.No.14356 of 2023 is arrayed as A3 in this case. A2-Aravindh, had hit the victim with stone on his chest and stomach region. A4-Elavarasan also hit the injured with the stone. A3-Beeshmar, hit the victim with wooden log all over his body. The Accident Register shows that the injured got abrasion over both elbow and contusion on the left flank region. It is informed that he had to undergo surgery because of the fracture of bone in the chest area. The photograph shows that, the victim was treated for his fracture of bones in chest.



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6. Considering the nature that the accused jointly caused injuries resulting in multiple fractures to the victim, **this Court is not inclined to grant anticipatory bail to A2 and A4. Therefore, the petition in Crl.O.P.No.14373 of 2023 stands dismissed.**

7. Insofar as A3-Beeshmar/petitioner in Crl.O.P.No.14356 of 2023 is concerned, he was born on 21.07.2007 and at the time of incident i.e. on 11.06.2023, he had not completed 18 years of age and he is a juvenile in conflict with law as defined under the Juveniles Justice (Care and Protection of Children) Act.

8. With regard to maintainability of anticipatory bail petition on behalf of juveniles, this Court in Crl.O.P.No.22361 of 2015 dated 27.04.2017 in K.Vignesh Vs. State, The Inspector of Police, C3, Seven Wells Police Station, Chennai, has passed the following orders;



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“14. From the above narration of various provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, one can understand, without any doubt whatsoever, that a child in conflict with law cannot be arrested and thus there can not be apprehension of arrest and so an application at the instance of a child in conflict with law either before the High Court or before the Court of Sessions under Sections 438 Cr.P.C. is not maintainable. The Juvenile Justice (Care and Protection of Children) Act, 2015 is a self-contained Code which is both substantive as well as procedural. The Act takes care of the interest of the child in conflict with law on the child being apprehended. When a question arises before the Board as to whether to grant bail to the child or not, the Board shall not grant bail if it finds that it is likely to bring the child into association with any known criminal or expose the said person to moral, physical



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or psychological danger or when the Board finds that the person's release would defeat the ends of justice. Even after bail is refused to the child, the child cannot be remanded to either judicial custody or police custody. The Board shall ensure the welfare of the child by keeping the child in an Observation Home or a place of safety.

9. In view of the authoritative pronouncement, this Court is of the view that the anticipatory bail petition filed on behalf of the child in conflict with law is not maintainable. **Accordingly, the Crl.O.P.No.14356 of 2023 is dismissed.**

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