



Crl.O.P.No.16061 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner herein seeks anticipatory bail in Crime No.158 of 2023 registered by the respondent police under Sections 420 and 406 IPC.

2. Even before the proceeding further it must be stated that after extensive arguments advanced, and the Court had commenced dictation, the learned counsel for the petitioner stated that he may be permitted to withdraw this petition. This would show that some of the contentions raised at the time of the argument are not correct. Be that it may be, it is admitted that the petitioner was in partnership with the defacto complainant in running a business, whereby electrical goods were imported from China for local distribution. It is the contention that the firm had been dissolved in the year 2016.

3. The learned counsel for the petitioner placed on record a series of accounts with respect to the Statement of partnership of the firm as of the year 2016 when it was dissolved and contented that a total sum of Rs.13,00,000/- was payable by the petitioner herein to the defacto complainant/ the other partner. The learned counsel also flashed a Demand Draft for a sum of



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Rs.2,00,000/- which he claimed is the only amount payable by him to the defacto complainant.

4. On the other hand, the defacto complainant has stated in his complaint and recorded on the First Information Report that the petitioner herein opened up a new venture called Surabi Electricals along with his brother and had diverted not only the goods which had been imported from China but also had misappropriated the amount which he had earned by such diversion of goods and sale of goods.

5. It is the contention of the learned counsel for the petitioner that, as a partner the petitioner cannot be accused of misappropriating the funds of the partnership. That could be correct if it is a question of two persons entering into a partnership and one accusing the other of taking advantage of the partnership and taking more amount that was allotted as share. But here is a case of diversion of goods to a separate entity and thereby, putting the defacto complainant to direct loss and also selling those goods to the advantage of the petitioner and to the disadvantage of the defacto complainant.



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6. It is contended by the learned counsel for the petitioner that the brother is not named as an accused in the First Information Report. It is trite to point out that the First Information Report is not a compendium of all facts and is only a beginning point for any investigation and during investigation, if it is found that the brother of the petitioner had also gained by this particular misappropriation of the petitioner, then certainly the respondent would take a decision to either add him as an accused or to take appropriate action in manner known to law. As a matter of fact even during the course of trial under Section 319 Cr.P.C an accused can be additionally added if evidence emanates during the course of trial. Therefore, non inclusion of the brother in the First Information Report is not a ground to grant anticipatory bail.

7. The learned counsel for the defacto complainant passed over a copy of a letter said to have been written by the petitioner herein on 27.06.2016, wherein he had admitted that he was due and payable a sum of Rs.2,41,55,614/- to the defacto complainant and had stated that he would return the sum within a period of two years. It is stated that since it had been not returned, the complaint came to be lodged.



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8. The learned counsel for the petitioner disputed the signature in the said letter. If that be so, then it is a matter for investigation. Investigation will also have to proceed on the formation of the other entity namely Surabi Enterprises between the petitioner and his brother, the source of goods which had come into that particular firm and whether it was due to import by the partnership between the petitioner and the defacto complainant or otherwise and the sales of those goods. All these aspects would require investigation of the petitioner herein.

9. The learned counsel for the petitioner has forwarded a thick set of papers claiming to be the accounts of the firm. These are aspects to be examined only during the course of trial. At this stage, the very fact that the learned counsel for the petitioner seeks to withdraw this petition, knowing the mind of the Court would indicate he is only interested in forum shopping.

10. In view of all these facts, I am not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

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