Orders Reserved on 01.09.2023	Orders Pronounced on ..09.2023

Crl.O.P.No.16618 of 2023

RMT. TEEKAA RAMAN.,J.

It is a case of alleged on-line diversification fund from company account.

2.The petitioner/A3, who apprehend arrest at the hands of the respondent Police for an alleged offence punishable under Sections 408, 420 r/w 34 IPC registered in Cr.No.106 of 2023, seeks anticipatory bail.

2(i) The alleged occurrence is said to have taken place from 05.03.2021 and the case has been registered on 15.05.2023.

2(ii) The alleged case of prosecution is that defacto complainant is one Dr.J.K.Prakash and Madankumar/A1 in this case have started V SHAPE GYM in the year January 2021 as a partnership by investing Rs.40,00,000/- by defacto complainant and Rs.20,00,000/- by Madankumar. After that, the above said GYM run successfully. Now the allegation against the Madankumar is that he has not properly maintained and informed to the defacto complainant regarding the income of the GYM and opened another bank account and diverted the income to that without the knowledge of the defacto complainant. The petitioner was appointed as one of the trainer on the basis of the monthly salary and he is no way connected with money transaction of the GYM. He has been implicated as one of the accused due to the reason that he is the brother of the above said Madankumar.

4. Heard the learned counsel for the intervenor who would contend that the defacto complainant and A1 has entered into a partnership and have been effectively running the GYM. A1 has inducted his relatives A2 & A3 and without the knowledge of the defacto complainant, he had opened a similar bank account with the Federal Bank, HDFC Bank and obtained separate card machine and using that card machine, he had misappropriated funds to the tune of Rs.8,68,717/-. The learned counsel for the intervenor filed (i) Statement of Accounts of Arunkumar with Federal Bank Ltd.. (ii) Statement of Transfer from the complainant's client to Arunkumar's Account via GPAY and (iii) Statement of Accounts of Arunkumar with India Bank.

5. The learned Government Advocate (crl.side) would state that A1

has already been arrested and is in custody and the matter is under investigation.

6. Considering the nature and gravity of the offence and also the "modus operandi" adopted by the petitioner, in opening the bank account on the very same name of the GYM and operating separate card machine from HDFC and when customer of the GYM pays card payment in the card machine for HDFC (manipulated account) on sweeping the card by customer, the amount will be credited to A.1 - newly opened account on HDFC Bank (having in similar name of the defacto complainant company), instead getting credited to defacto complainant's account, thereby he has alleged to have diverted amount of the defacto complainant and thereby he has misappropriated the funds of the defacto complainant and hence I am not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

..09.2023

rgr **(1/2)**

<u>RMT. TEEKAA RAMAN.,J.</u>

rgr

Per-Delivery order in
Crl.O.P.No.16618 of 2023

..09.2023

(1/2)