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Crl.O.P.No.16732 of 2023

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Reserved On	22.08.2023
Pronounced On	24.08.2023

RMT.TEEKAA RAMAN,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under **Sections 294(b) IPC and Section 67 of Information Technology Act, 2000 in Crime No.473 of 2023** on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant is that she was residing in the Mayiladuthurai Village. The petitioner is also residing in the same village. The *de-facto* complainant's son and the petitioner are friends. They both studied at Padmavathi Engineering College in Chennai from 2009 to 2013. Now, the *de-facto* complainant's son is working in Poland and he is in a good position in life. Because of jealousy, petitioner contact the *de-facto* complainant's son Arulnandam through facebook messenger and messaged him in filthy language. So the *de-facto*



complainant contacted the petitioner through his mobile and asked him about his misbehaviour. Petitioner against threatened the *de-facto* complainant and scolded her in unparliamentary words. Hence, the complaint.

3. The learned counsel for the intervenor would state that initially she gave a complaint against the very same petitioner. The same was numbered as CSR No.635 of 2023 and subsequently it was closed. Again, she has given a complaint and opposed for grant of anticipatory bail.

4. The learned Government Advocate (Crl.side) appearing for the respondent would state that earlier complaint was closed.

5. By an Order dated 03.08.2023, this Court has directed the learned Government Advocate (Crl.side) to produce the files relating to CSR No.635 of 2023. However, the same is not produced by the respondent.

6. The learned counsel for the petitioner/accused would contend that, the counsel for the *de-facto* complainant demanded



Rs.2,00,000/- and subsequently, he has paid Rs.50,000/- in cash and Rs.38,000/- by way of Google Pay to him to settle the amount. Now demanding further amount they have given a complaint which was earlier closed. And hence, this Court has directed the accused to file an affidavit to that effect.

7. Today, the learned counsel for the petitioner has filed an affidavit and paragraph Nos.6 & 7 of the affidavit reads as under,

“6. I state that the de-facto complainant's had indulged in demanding money from me for the foisted complaint against me during me April, 2023 based upon the same a CSR.No.635 of 2023 dated 30.04.2023 for the very same above set of facts with bald allegations as stated above, based upon the compromise entered between me and the 2nd respondent herein the said CSR was closed on 01.05.2023, for entering into compromise the 2nd respondent had demanded Rs.2,00,000/- from me as illegal money to give quietus to this allegations the 2nd respondent's counsel namely S.Kaviarasan, introduced me as counsel for the 2nd respondent, to settle this issue. and he demanded Rs. 1,00,000/- for him to settle this issue.

7. I state that on the repeated demands made by Kaviarasan I was forced to transfer Rs.38,000/- to him via his GPAY Number 9443501195, on 28.04.2023 and 01.05.2023 to



close the above said CSR No.635 of 2023 which was pending on the file of the 1st respondent. The 2nd respondent had also received Rs.50,000/- by way of cash from me on 01.05.2023 in front of the 1st respondent police officials. The 2nd respondent's counsel Kaviarasan had sent voice notes to me demanding more money as claimed by him in order to settle this issue amicable.”(emphasis supplied).

He also filed a copy of the letter addressed by the *de-facto* complainant to the Inspector of Police, Mayiladuthurai seeking no further action will be taken on 01.05.2023. On such understanding, the CSR was closed.

8. This Court has taken note of the affidavit filed by the petitioner and also non production of files by the respondent police relating to proceedings in CSR.No.635 of 2023 that is said to have been closed on 01.05.2023.

9. The specific allegation is that the number from which the alleged unparliamentary words were sent does not belong to him, it appears to be an international number. Hence, it is under investigation. At this juncture, I am inclined to grant anticipatory bail to the petitioner herein with certain conditions.



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10. Accordingly, petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before **the learned Judicial Magistrate I at Mayiladuthurai District**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate 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 weekly twice i.e., Tuesday and Thursday at 10.30 a.m., until further orders;

[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 appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

11. In the preceding paragraphs, this Court has extracted the affidavit filed by the petitioner herein, wherein he had paid Rs.38,000/- to the Kaviarasan, counsel for the *de-facto* complainant via his Google pay No. 9443501195 on 28.04.2023 and 01.05.2023 to close the above said CSR. And hence, I find that the counsel for the *de-facto* complainant has *prima facie* appears to have acted in violation of the Code and conduct as required for an advocate and



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hence, the affidavit filed before this Court, which is taken on file today is ordered to be forward to the Bar Council of Tamil Nadu to take appropriate action against the said advocate and to hold an enquiry as to the alleged misconduct and pass appropriate orders.

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