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Crl.O.P.No. 19504 of 2023

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And

Crl.M.P.No. 13945 of 2023

C.V.KARTHIKEYAN, J.

Crl.M.P.No. 13945 of 2023 is allowed.

2. The petitioner apprehends arrest at the hands of the respondents police / the Inspector of Police, W-23, All Women Police Station, Royapettah, Chennai - 600 014, for the offences punishable under Sections 498A, 406 and 354C of IPC in Crime No. 5 of 2019 and seeks anticipatory bail.

3. The petitioner had earlier filed two anticipatory bail applications. The first one was dismissed as withdrawn and the second one was dismissed on appreciation of the facts on 23.09.2019 by this Court. That petition was filed not only by the petitioner herein but also his mother, who was the second accused. The second accused / mother was granted



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relief and the application of the petitioner was dismissed. After four years, the petitioner is back before this Court seeking anticipatory bail.

4. In the interregnum period, the other accused, who are apparently two sisters and an uncle had filed Crl.O.P.No. 26373 of 2019 seeking to quash the FIR. Since that application was filed, the respondent police were not able to undertake investigation of the offences as alleged in the FIR. That Petition finally was dismissed on 05.09.2023.

5. Heard the learned counsel for the petitioner, learned Government Advocate (Crl. Side) appearing for the respondent and also the learned counsel appearing for the defacto complainant.

6. The learned counsel for the defacto complainant insisted that a string of diamond and jewelery articles had been given to the petitioner at the time of marriage which was solemnised on 28.04.2015 and primarily sought that those jewelery should be returned back.



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7. It is seen that the petitioner had also filed an application seeking divorce before the Family Court at Chennai and on application filed by the defacto complainant before the Hon'ble Supreme Court, the same was transferred to Dirburgah in Assam. It is also stated that before the Hon'ble Supreme Court, efforts to settle the issue through mediation were undertaken but the process could not produce any amicable settlement between the parties.

8. The main issue being return of jeweleries, it would only be appropriate that the petitioner is granted an opportunity to explain his stand and therefore, the anticipatory bail is granted. The respondent is directed to follow the procedure under Section 41 and its provisions of the Code of Criminal Procedure by issuing notice to the petitioner herein. The petitioner must answer to the said notice and appear on the date on which he is called upon to appear before the respondent police.



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9. The respondent may also issue notice to the defacto complainant and if it is acceptable to the parties, enter into a discussion on the return of the jewels which appear to be the main issue between the parties.

10. Anticipatory bail is granted to the petitioner herein taking into consideration the fact that there could be a possibility of the issues being resolved if the jeweleries are returned back.

11. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on appearance, within a period of 15 days from the date on which the order copy made ready, before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai -15, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:



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- (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 every week ie., on Monday 10.30 a.m., until further orders and should not fail to do so appear;
- (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]**.

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

vsg

11.09.2023



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