



Crl.O.P.Nos.20024 & 20039 of 2023

***Orders reserved on
25.09.2023***

***Orders pronounced on
29.09.2023***

Crl.O.P.No.20024 & 20039 of 2023

RMT.TEEKAA RAMAN, J.

The Petitioners, who apprehend arrest at the hands of the Respondent police for the offence punishable under Sections 420, 465, 468 & 471 IPC in Crime No.14 of 2023 on the file of the Respondent police, seek pre-arrest bail.

2.Kalyanji K Saiya/A1 is the Petitioner in Crl.OP.No.20024 of 2023 and Amit K.Saiya/A2 is the Petitioner in Crl.OP.No.20039 of 2023.

3.The case of the prosecution is that A2's cousin, Bhavesh N.Saiya, has given a complaint against the A2 and his Father A1, alleging forgery and cheating for an offence, which was alleged to have taken place during the year 2007. A2 along with A1 forged the signature of Navin K.Saiya, brother of A1 in the partnership deed dated 01.04.2007 of the partnership firm M/s.Choice Centre run by the brothers as partners.

4.Heard the learned counsel for the Petitioners, learned counsel for the Intervener and the learned Government Advocate (Crl. Side) appearing for



the Respondent Police.

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5.On perusal of typed set, I find that there is an arbitration proceedings between the parties and by order of this Court dated 11.03.2021, a senior Advocate was appointed as Arbitrator and arbitration proceedings has been decided in favour of the Accused. In the said arbitration proceedings also there is a plea raised by the Defacto Complainant as that in the complaint viz., the said partnership deed relied on by A1, dated 01.04.2007, was a forged and fabricated document, as it contained a clause 3, which stated as follows: *“That in case of the dissolution of the partnership firm the partnership firm shall handover the vacant possession of any immovable property being used by it for its business purpose to the owner of the said immovable property”*. After elaborate submissions, the Arbitrator has rejected the case of the Defacto Complainant and gave a specific finding with regard to as to whether the partnership deed dated 01.04.2007 is a valid one or forged one and held that the alleged plea of forgery is not proved and now the Defacto Complainant has filed the criminal complaint.

6.From the typed set of papers, I find that as early as on 30.09.1961,



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Jayanthilal Savla and Kalyanji K Saiya were entered into a partnership and sale deed has been executed in favour of Jayanthilal Savla and Kalyanji K Saiya on 15.11.1965 and on 30.04.1969 partnership firm was dissolved by a deed of dissolution, on the very same day, deed of release was also executed by the one of the co-owner of the property viz., Jayanthilal Savla in favour of the first Accused and thereafter on 09.06.1969 partnership deed was entered between the first accused and father of the Defacto Complainant and father of the Defacto Complainant died on 03.01.2021 and by operation of law, the partnership firm was dissolved and it appears that on 25.01.2022, the Defacto Complainant filed OA.No.60 & 61 of 2021 for restraining A1, from running the partnership firm.

7.After perusing the documents and after hearing the submissions made by the learned counsel on either sides, I find that the custodial interrogation of these Petitioners is not necessary and I am inclined to grant anticipatory bail to the Petitioners with certain conditions.

8.Accordingly, the Petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from



the date on which the order copy made ready, before the **learned Judicial Magistrate XVIII, Egmore**, on condition that the Petitioners shall execute a separate bond for a sum of **Rs.50,000/- (Rupees Fifty 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 Petitioners 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] **A2/Amit K Saiya shall report before the Respondent Police, on every Tuesday and Saturday at 10.30 a.m., for a period of three weeks and thereafter as and when required; since A1/Kalyanji K Saiya is aged about 82 years, he shall report before the Respondent Police as and when required;**

[c] the Petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the Petitioners 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



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action against the Petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

29.09.2023
(2/2)

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Pre-delivery Order in
CrI.O.P.No.20024 & 20039 of 2023

Dated 29.09.2023

(2/2)



CrI.O.P.Nos.20024 & 20039 of 2023

CrI.M.P.Nos.14566 & 14569 of 2023

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in

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RMT.TEEKAA RAMAN, J.

CrI.MP.No.14566 of 2023 has been filed to permit the Petitioner to intervene in CrI.OP.No.20024 of 2023.

2.CrI.MP.No.14569 of 2023 has been filed to permit the Petitioner to intervene in CrI.OP.No.20039 of 2023.

3.Being satisfied with the submissions made by the learned counsel for the Petitioners and the reasons stated in the affidavit filed in support of these Petitions, I am inclined order these Petitions.

4.Accordingly, these Petitions are ordered as prayed for.

sai

29.09.2023
(1/2)