



Crl.O.P.No.22156 of 2023

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C.V.KARTHIKEYAN,J.

The petitioners/A1, A2, A3 and A4 seek anticipatory bail in Crime No.235 of 2023, registered by the respondent police for the offences punishable under Sections 406 & 420 of IPC.

2.The case of the prosecution is that the defacto complainant, the owner of Sri Krishna Jewellery (Gold making workshop) and running gold business, was introduced to A1 saying that A1 is also doing gold business.

3.It is the case of the prosecution that the defacto complainant had given 8.521 Kgs of golden ornaments to the accused and that the accused had return back only 4.610 kgs of pure gold, leaving a balance of 3.265 kgs gold to be given. But however, the reading of FIR shows that the defacto complainant had made allegations about handing over of gold and cash transactions primarily with the 3rd accused. Though at the end, he had also stated that the balance gold should be obtained from the 3rd accused and his relatives who are A1, A2 and A4, still the nature of



Crl.O.P.No.22156 of 2023

transactions indicate that the defacto complainant had transactions primarily with the 3rd accused.

4.Taking all the factors into consideration, I am not inclined to grant anticipatory bail to the 3rd accused/3rd petitioner (Masin Malik @ Mahasin Mallick). Accordingly, anticipatory bail sought by the 3rd accused/3rd petitioner (Masin Malik @ Mahasin Mallick) stands dismissed. As far as, the petitioners 1, 2 and 4/Accused 1, 2 and 4 are concerned, I am inclined to grant anticipatory bail to the petitioners 1, 2 and 4/A1, A2 and A4 with certain conditions:

5.Accordingly, the petitioners 1, 2 and 4/A1, A2 and A4 are ordered to be released on anticipatory 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 No.5, Coimbatore**, on condition that the petitioners shall execute separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** each with two sureties for a like sum to the satisfaction of the respondent



Crl.O.P.No.22156 of 2023

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 1, 2 and 4/A1, A2 and A4 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 petitioners 1, 2 and 4/A1, A2 and A4 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioners 1, 2 and 4/A1, A2 and A4 shall jointly deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of Crime No.235 of 2023 before the learned Judicial Magistrate V, Coimbatore, on or before 05.01.2024. On such deposit, the learned Judicial Magistrate V, Coimbatore, may transfer the said amount to an interest earning Fixed Deposit in a Nationalised Bank. If the said petitioners/accused 1, 2 and 4 are acquitted, the amount may be handed over to them. If they are convicted, the amount may be handed over to the defacto complainant.



Crl.O.P.No.22156 of 2023

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

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

11.12.2023

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Crl.O.P.No.22156 of 2023

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Crl.O.P.No.22156 of 2023

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