



CrI.O.P.No.23929 of 2023

WEB COPY

C.V.KARTHIKEYAN, J.

The petitioner/A3, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 406 & 420 of IPC, in Crime No. 153 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that she is running an Enterprise in the name of M/s.Nanayam Exports selling spices at wholesale prices and had also registered her business in a Website. While so, the petitioner along with other accused had purchased 4 tonnes of Pepper from the defacto complainant's firm for a sum of Rs.23,10,000/- and after receiving the goods the accused have not paid the amount for the said purchase and cheated the defacto complainant. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is arrayed as A3 and he



is only a delivery boy under the A1 and A2 and he has nothing to do with the alleged transaction. Hence, he prays for grant of anticipatory bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl. Side) for the respondent would submit that there are totally five accused in this case in which, the petitioner is arrayed as A3. He would further submit that based upon the order placed by the A1 to A5, 4 tonnes of Pepper have been supplied to the accused to the tune of Rs.23,10,000/- and after taking the delivery, they have failed to pay the amount and thereby cheated the defacto complainant. He would further submit that the case is under investigation. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Earlier anticipatory bail came up for consideration before this Court on 29.08.2023 in Crl.O.P.No.19210 of 2023 and the same had been dismissed.



WEB COPY

6. It is seen that all the other accused had been subsequently either granted bail or granted anticipatory bail. That is a significant change in circumstances.

7. The learned counsel for the petitioner also stated that the petitioner would come forward to deposit a portion of the amount to the credit of crime number to show his bonafide.

8. Taking all the factors into consideration, this Court is inclined to grant anticipatory bail to the petitioner herein, however directing the petitioner herein to deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) to the credit of Crime No.153 of 2023 and on such deposit, the learned Judicial Magistrate No.V, Coimbatore, may transfer the said amount to an interest earning fixed deposit account in anyone of the Nationalized Banks and pass final orders after conclusion of the trial. If the petitioner is acquitted, the amount with interest may be handed back to the petitioner and if the petitioner is convicted, the amount with interest may be handed over to the defacto complainant.



WEB COPY

9. Accordingly, the 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 No.V, Coimbatore, 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 daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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.

15.12.2023

smv

C.V.KARTHIKEYAN, J.

smv



WEB COPY



CrI.O.P.No.23929 of 2023

15.12.2023