



Crl.OP.No.23863 of 2023

Crl.O.P.No.23863 of 2023

WEB CO **C.V.KARTHIKEYAN, J.**

The petitioners seek anticipatory bail in Crime No.226 of 2023, registered under Sections 406 and 420 IPC, on 6.9.2023 by the respondent.

2.It is the case of the prosecution that A1, Indumathi, who has been arrested and is still under detention had cheated and committed on criminal breach of trust on false promises given to the de facto complainant. It is stated that she had cheated a total amount of Rs.44/- lakhs from the de facto complainant. As a matter of fact it is the further case of the prosecution that the 1<sup>st</sup> accused had held out that she would be able to invest amounts in profitable places and she had held out that promise to the de facto complainant. The de facto complainant had handed over a total sum of Rs.72/- lakhs. A portion alone was actually invested and the balance Rs.44/- lakhs had not been invested. However, e-mails had been sent by the 1<sup>st</sup> accused to the de facto complainant that the amount of Rs.44/- lakhs had been invested but actually by a self cheque, the amount had been withdrawn by her.

3.The learned counsel for the petitioners herein/A2 & A3 stated that the petitioners who are husband and wife, are in no way connected with the de facto complainant or with the 1<sup>st</sup> accused. It is contended that the 1<sup>st</sup>



Crl.OP.No.23863 of 2023

accused used to visit the 1<sup>st</sup> petitioner on casual terms on several occasions.

It is therefore contended by the learned counsel for the petitioners that the petitioners being strangers to the entire transaction between the de facto complainant and the 1<sup>st</sup> accused, they are innocent of any offence and that necessary relief seeking granting anticipatory bail must be granted to them.

4. On the side of the respondent however, the grant of anticipatory bail is very strongly opposing by stating that the name of the 1<sup>st</sup> petitioner had come up in the confession given by the 1<sup>st</sup> accused who had stated that it was on the instigation of the 1<sup>st</sup> accused that she had started to venture out inviting investments and stating that those investments could be profitably made out in various places. It is stated by the learned Government Advocate (Crl.Side) for the respondent that on the strength of this particular stand of the 1<sup>st</sup> petitioner herein, the 1<sup>st</sup> accused had collected money from the de facto complainant. It is also contended that interrogation is required since a sum of Rs.44/- lakhs had been withdrawn by way of self cheque and the balance money will have to be detected and for that purpose, grant of anticipatory bail had been strongly opposed.

5. The de facto complainant had also entered appearance and the learned counsel had filed a string of communications between the de facto complainant and the 1<sup>st</sup> accused for transfer of money and the e-mails which



Crl.OP.No.23863 of 2023

had also been sent and apart from that several whatsapp messages which have been forwarded by the 1<sup>st</sup> accused projecting that the amounts given by the de facto complainant had been profitably invested in various places.

6.It is contended by the learned counsel for the petitioners, the petitioners herein are strangers to the 1<sup>st</sup> accused. If that be so then there is no reason and it is beyond the reason to contemplate as to why the 1<sup>st</sup> accused would have mentioned the name of the 1<sup>st</sup> petitioner herein in the confession statement. Even the respondents would not have known anything about the petitioners herein and therefore the name of the 1<sup>st</sup> petitioner having been stated in the confession. Even though a confession is an extremely thin piece of evidence, it would be a starting point for investigation to determine where the money had gone. It is not a small amount, but a huge amount of Rs.44/- lakhs. It is also seen that the learned counsel for the petitioners had also stated that there has been a casual acquaintance between the 1<sup>st</sup> accused and the 1<sup>st</sup> petitioner herein. Since the name of the 1<sup>st</sup> petitioner had come up without any instigation either by the de facto complainant or by the investigating agency, necessarily than the role of the 1<sup>st</sup> petitioner will have to be examined and for that purpose, grant of anticipatory bail would scuttle investigation. The name of the 2<sup>nd</sup> petitioner wife of the 1<sup>st</sup> petitioner, is not reflected. Though they could be husband and wife, both have been implicated.



Crl.OP.No.23863 of 2023

7.At this stage, I would grant anticipatory bail only to the 2<sup>nd</sup> petitioner and insofar as the 1<sup>st</sup> petitioner is concerned, anticipatory bail petition stands dismissed.

8.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the 2<sup>nd</sup> petitioner herein with certain conditions.

9. Accordingly, the 2<sup>nd</sup> petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned V Metropolitan Magistrate Court, Egmore, Chennai**, on condition that the 2<sup>nd</sup> petitioner shall execute a separate 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.



Crl.OP.No.23863 of 2023

[b] **The 2<sup>nd</sup> petitioner** to appear before the respondent **everyday at 10.30 a.m.**, until further orders.

**Anticipatory bail petition stands dismissed insofar as the 1<sup>st</sup> petitioner.**

[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.

08.11.2023  
2/2

kp



WEB COPY



Crl.OP.No.23863 of 2023

**C.V.KARTHIKEYAN, J.**

kp

Crl.O.P.No.23863 of 2023

08.11.2023  
2/2