



Crl.O.P.No.24967 of 2023

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C.V.KARTHIKEYAN, J.

The petitioners / A1, A3 and A5 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 451, 380 and 506(i) r/w Section 34 of IPC in Crime No.235 of 2023, seek anticipatory bail.

2.The 1st petitioner is the wife of the defacto complainant.

3. It must be stated that, it is to their disadvantage, the matter has now come to this Court and the Court has now got to adjudicate on an anticipatory bail petition filed by the wife on a complaint given by the husband.

4. The short facts are that the husband is residing in a house, which according to the defacto complainant was purchased by him, but according to the 1st petitioner/1st accused it was purchased by her father. At any rate, it stands in the name of both the defacto complainant and the



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1st petitioner herein. This would automatically meant that, both of them are entitled to enter into the house, at any point of time.

5.The 1st petitioner did just that, but unfortunately appears to have done that with other accused persons, and a few of them are also advocates.

6.I must really point out that advocates should not put themselves in a position to be used as henchmen by persons, who are subsequently termed as accused in a Court of law. There is dignity in the profession. If at all the 1st petitioner wanted support, she could have taken Doctors, Engineers or anybody else, but the attitude that an advocate is always available should be erased in the minds of everybody in the society.

7.Be that as it may, it is stated that all the persons entered into the house and had taken away a few sovereigns of gold and some documents and had also broken some articles.



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8.The learned counsel for the petitioners states that the petitioners straight away walked back to the police station and had given a complaint, which was registered as CSR and the defacto complainant for good measure also walked into the same police station and had also given a complaint. Thereafter it became an issue as to who could get the complaint registered as First Information Report and in that, the defacto complainant / husband succeeded, leading to registration of First Information Report under the aforementioned circumstances in Crime No.235 of 2023.

9.Going into the house is justified by the learned counsel for the petitioners by stating that owing to a small function to be conducted for the daughter, jewels were required and it is stated that the defacto complainant also invited the 1st petitioner to come over to the house. It is also stated that, at that point of time, since there were proceedings pending in various Courts, it was thought that, an advocate should accompany her. But that particular advice has now put her in the position



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of an accused before this Court.

10.However, it is the contention of the learned counsel for the defacto complainant that the defacto complainant never invited the 1st petitioner to enter into the house.

11.The defacto complainant has no authority to refuse permission for the 1st petitioner to enter into the house, since the house also stands in her name.

12.At any rate, it is stated that the jewels have been returned and documents have also been returned and the issue whether damages have been caused has to be decided only during the course of trial.

13.There is one contention that a document in original has not been returned. But possession of that, with the defacto complainant will have to be established. That it was taken away by the 1st petitioner will have to be established. That the petitioners are today in possession will have to be established.



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14.These facts can be established only during the course of trial. Since conflicting versions are given, this Court can never assume or presume that anyone version to be correct.

15.In view of all these facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

16.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 XVII Metropolitan Magistrate, Saidapet, on condition that each one of the 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:



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[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] the petitioners 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 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 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]**.

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

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