



*Crl.O.P.Nos.25972 & 26093 of 2023*

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

A1 has filed Crl.O.P.No.25972 of 2023 and A2 has filed Crl.O.P.No.26093 of 2023. Both in Crime No.739 of 2023, registered under Sections 419 & 420 IPC r/w Section 15 of Indian Medical Council Act, 1956. They had earlier filed Crl.O.P.Nos.22929 & 23183 of 2023 seeking anticipatory bail, which were dismissed on 19.10.2023. A status report was therefore called to be filed to determine whether there is any change in circumstances.

2.It is the case of the prosecution that the second accused is the owner of the building and the first accused is running a scan centre in that building. The specific case of the respondent is that they had found a damaged Sonoray scan machine in that scan centre. It is also stated by the respondent that the petitioners were conducting scan and disclosing the sex of the foetus in the womb, which is prohibited and it is also seen that the petitioners do not have necessary qualification for conducting scan. It would only cause complications for the mother and much mental agony for the parents and everybody.



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3.The learned counsel for the second accused stated that the petitioner is the owner of the house, which is actually a thatched house rented out to the first accused and was not aware of the activities which were going on there. The learned counsel for the first accused produced a certificate that the first accused has a license to run a medical shop called M/s.Om Shakthi Medicals and stated that he was doing that particular business.

4.While searching, the respondent found a scan machine there. On the side of the respondent, it is stated that the first accused was running a scan centre illegally only to detect the gender of the unborn child in the womb of a mother. It is also stated that the scan machine was about to be recovered and seized, but the first accused had broken it and damaged the same. It is also stated that as against the first accused, there are two previous cases of similar in nature, registered in Crime No.77 of 2015, under Section 420 IPC and Section 15 (iii) IMC Act and in Crime No.118 of 2022, under Sections 419, 420 IPC r/w 15 (iii) IMC Act and 22 (3) PDT Act. Though one of the cases had been disposed and the other one is under investigation. It had been stated that the investigation is still in progress and if the accused



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are let on bail, there is a possibility of tampering the evidences and threatening the witnesses.

5.This Court will have to however examine the overtact alleged as against the second accused. The first accused is running what according to him is a medical shop, but from which a scan machine was seized. There are also two previous cases as against the first accused. These aspects will have to be further examined and investigated. So far as the second accused is concerned, she is the owner of the premises, where the first accused was running what according to him is a medical shop, but also had a scan machine and running a scan centre. Whether the second accused has knowledge about this or not has to be examined. The learned counsel for the second accused proclaims innocence that the second accused was not aware of the activities of the first accused. But this statement was strongly objected and denied by the respondent.

6.Taking all factors into consideration, this Court is inclined to grant anticipatory bail to the petitioner in Crl.O.P.No.26093 of 2023/second accused with certain conditions. The petitioner in Crl.O.P.No.26093 of



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2023/second accused must provide all information about the scan centre, which is run by the first accused and if there is no proper co-operation from the second accused, then an application for cancelling this order can be filed. However, so far as the first accused is concerned, though a certificate had been produced that the first accused has license to run a medical shop called M/s.Om Shakthi Medicals, the very fact that a scan machine had been recovered and seized from the premises shows that the premises was used also as a scan centre. The further fact of two previous cases against the first accused of similar in nature is also a convincing factor which prevails upon me to dismiss the anticipatory bail petition of the first accused.

7.Accordingly, the petitioner in Crl.O.P.No.26093 of 2023/second accused 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 Judicial Magistrate - 1, Kallakurichi**, 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



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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 daily at 10.00 a.m. until further orders.**

[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]**;



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

8. Accordingly, Crl.O.P.No.26093 of 2023 is allowed and  
Crl.O.P.No.25972 of 2023 is dismissed.

**28.11.2023**

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