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CrI.O.P.No.26739 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

CrI.O.P.No.26739 of 2023

Sri Prashanthi

... Petitioner / Defacto complainant

Vs.

1.N.Harishankar

... 1st Respondent / Accused

2.The State Rep. by

Inspector of Police,

W-1, All Women Police Station,

Thousand lights, Chennai.

... 2nd Respondent / Complainant

PRAYER: Criminal Original Petitions filed under Section 439(2) of Cr.P.C., prayed to cancel the anticipatory bail granted to the 1st respondent / Accused by the learned Principal Sessions Judge, Chennai in CrI.M.P.No.23576 of 2023 dated 25.09.2023.

For Petitioner : Mr. B. Kumar, Senior Counsel,
For Mr.C.Iyyapparaj

For R1 : Mr.R.C. Paul Kanagaraj

For R2 : Mr. R. Vinothraja,
Govt. Advocate (Criminal Side)



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ORDER

This petition has been filed by the defacto complainant seeking interference and cancellation of anticipatory bail granted to the 1st respondent / accused by the learned Principal Sessions Judge, Chennai in Crl.M.P.No.23576 of 2023 by an order dated 25.09.2023, which petition was filed seeking anticipatory bail, at the time when the First Information Report was not registered, but by stating crime number not known and also stating that the offences involved were under Sections 417, 498(A) of IPC and Section 4 of the TNPHW Act. On the basis of the averments made by the petitioner therein and on hearing the City Public Prosecutor, the learned Principal Sessions Judge, Chennai, had granted anticipatory bail by an order dated 25.09.2023 in Crl.M.P.No.23576 of 2023.

2.It must also be mentioned that the petitioner herein had also filed an intervening petition in Crl.M.P.No.24082 of 2023. After that particular order was passed, the 2nd respondent had proceeded with enquiry in the allegations of the petitioner herein and had registered First Information Report on 22.10.2023, and had stated that the offences are punishable under Sections 498(A), 420, 294(b) and 323 IPC.



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3.The learned Senior Counsel on behalf of the petitioner pointed out that particular fact and stated that the 1st respondent had not obtained anticipatory bail by giving the correct details namely, the crime number and also the fact that the petitioner is now alleged to have committed offences also under Sections 420 and 294(b) and 323 IPC.

4.The issue now which will have to be addressed by the Court is whether the anticipatory bail which had been granted should be cancelled or whether permission could be granted to the 1st respondent to approach the competent Court seeking anticipatory bail, in view of the registration of FIR and inclusion of further offences under the Indian Penal Code.

5.It would always be advisable when crime number is not mentioned and when there is an enquiry is pending before any respondent police, the Courts err on the side of caution and permit enquiry to proceed and after FIR is registered, take a decision on the petitions filed to grant anticipatory bail or bail. During the course of enquiry, there is always a possibility, as has happened in the present instance, of further offences being



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made out and included in the FIR, when actually registered.

6.Let me give an opportunity to the 1st respondent herein to once again file necessary petition before the competent Court and seek necessary orders with respect to the offences under Sections 420, 294(b) and 323 IPC and also specifically mention the FIR in Crime No.7 of 2023 dated 22.10.2023.

7.The earlier order dated 25.09.2023 granting anticipatory bail in Crl.M.P.No.23576 of 2023 would apply only for the offences under Section 498(A) IPC and not for the other offences. Investigation is still pending and therefore, the issue of anticipatory bail can very well be taken up by the competent Court.

8.Let me not aver to the arguments advanced about the Court which should hear the petition. I am confident that any Court which hears the petition would pass orders on the basis of the materials available and on the arguments advanced by the learned counsels.



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9.Stating as above, the earlier order dated 25.09.2023 granting anticipatory bail to the 1st respondent in Crl.M.P.No.23576 of 2023 is not cancelled. Accordingly, this Criminal Original Petition stands dismissed. Though this petition stands dismissed, I would also give an opportunity to the present petitioner to participate before the Court where the 1st respondent files petition seeking anticipatory bail afresh, if at all such a petition is filed.

18.12.2023

smv

To

- 1.The learned Principal Sessions Judge, Chennai.
2. Inspector of Police,
W-1, All Women Police Station,
Thousand lights, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

smv

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