



Crl.O.P.No.709 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner/A1 who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 419 and 420 of IPC r/w Section 15 of the Indian Medical Council Act, 1956 in Crime No.739 of 2023, seeks anticipatory bail.

2.It is the case of the prosecution that the 2nd accused is the owner of the building and the 1st 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 that 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.



Crl.O.P.No.709 of 2024

WEB COPY

3.The learned counsel for the petitioner produced a certificate that the 1st 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 1st 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 1st accused had broken it and damaged the same. It is also stated that as against the 1st accused, there are two previous cases of similar 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. It had been stated that the investigation is still in progress and if the accused are let on bail, there is a possibility of tampering the evidence and threatening the witnesses.



Crl.O.P.No.709 of 2024

WEB COPY

5.The earlier petition was dismissed on 28.11.2023. The one change in circumstance is that all the other accused have been granted either anticipatory bail or bail.

6.The learned counsel for the petitioner stated that the petitioner charges amounts from the patients but also has to pay money to the brokers.

7.Taking the change in circumstance and all other factors, this Court is inclined to grant anticipatory bail to the petitioner, however, **directing the petitioner to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit to the credit of Crime No.739 of 2023 before the learned Judicial Magistrate – I, Kallakurichi District and on such deposit, the said amount may be handed over by the learned Judicial Magistrate – I, Kallakurichi District, to the Chief Medical Officer, Government Hospital Kallakurichi, for the treatment of needy patients.**



Crl.O.P.No.709 of 2024

8.The petitioner must also file an affidavit at the time of executing sureties that he will not be involved in running similar business of scan centre and would also not act as a broker or mediator for such business. The affidavit must be retained in the record by the learned Judicial Magistrate – I, Kallakurichi District.

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 – I, Kallakurichi District, 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



Crl.O.P.No.709 of 2024

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., 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]**.

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

15.02.2024

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Crl.O.P.No.709 of 2024

smv

Crl.O.P.No.709 of 2024

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