



Crl.OP.Nos.3847 and 3856 of 2024

Crl.O.P.Nos.3847 and 3856 of 2024

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C.V.KARTHIKEYAN,J.

The petitioner/A1 has filed Crl.OP.No.3847 of 2024 and the petitioner/A2 has filed Crl.OP.No.3856 of 2024, both in Cr.No.42 of 2024 registered by the respondent police for the offences punishable under Sections 147, 447, 294(b), 379 and 506(2) IPC r/w Section 3(1) of T.N.Public Property (Prevention of Damages and Loss) Act, 1992. They seek anticipatory bail.

2.The petitioners are landlords with respect to a land measuring 7.125 sq.ft. The defacto complainant is running a Hotel and other allied businesses. There was a lease for twenty years. Even before the expiry of the lease, it is stated that the petitioners herein had entered into the particular shop along with others and ransacked the entire place.

3. It is the specific case of the respondent that the value of damages of the articles in that particular shop would be about Rs.25,00,000/- .



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4. Learned counsel for the petitioners stated that the damages would not be to that extent and could be only to the sum of Rs.2½ lakhs,

5. Even if the statements made in the FIR are taken to be tested, the fact that there has been damages was also affirmed by a Surveyor who had given a report after inspecting the said place. It is no doubt true that the said report should be tested during the course of trial, but, an elaborate report along with along with photographs have been given, which is placed on reliance by the respondent. It also gives the list of various articles which had been damaged and also the probable loss suffered. Even if a Fridge is damaged owing to depreciation is valueless, the replacement cost would be more, since a new Fridge will have to be purchased. Therefore, it is not the value of the articles which had been damaged in the as is were is condition, but, the cost of replacement of those articles which is also equally important.

6. The learned counsel for the petitioners stated that in the FIR it had been stated that the wife of the second petitioner also entered into the shop, but, when anticipatory bail filed on her behalf, the respondent had stated that she is not an accused. This only shows the fairness of the



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respondent in restricting the array of accused to those, according to the respondent, who are directly responsible for the various offences mentioned and not including those who are not directly or indirectly responsible.

7. The learned counsel for the petitioners further stated that the first petitioner is a Senior Citizen and also has suffered fracture in his hand on 12.01.2024 even prior to the date of the occurrence.

8. In view of that particular fact, this Court is inclined to grant anticipatory bail to the petitioner/A1 in Crl.OP.No.3847 of 2024 with subject to the following conditions. However, since further investigation will have to be done as seen from the counter filed by the respondent, this Court is not inclined to grant anticipatory bail to the A2/petitioner in Crl.OP.No.3856 of 2024.

9. Accordingly, the petitioner/A1 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 District Munsif-Cum-Judicial Magistrate, Valappady**, on condition that the petitioner shall execute a separate bond for a sum of **Rs.10,000/-**



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(Rupees Ten Thousand only) with two sureties, 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/A1 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/A1 shall report before the respondent police everyday at 10.30 a.m., as and when required for interrogation.

[c] the petitioner/A1 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner/A1 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/A1 in accordance with law as if the conditions have been



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imposed and the petitioner/A1 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.

10. With the above directions, this Criminal Original Petition in respect of the petitioner in Crl.OP.No.3847 of 2024 stands allowed. The Criminal Original Petition in respect of the petitioner in Crl.OP.No.3856 of 2024 stands dismissed.

05.03.2024

Vv

C.V.KARTHIKEYAN,J.



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