



CrI.O.P.No.5024 of 2024

CrI.O.P.No.5024 of 2024

C.V.KARTHIKEYAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379, 511 of I.P.C in Crime No.204 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had attempted to commit theft along with other accused in the place of the defacto complainant.

3. The petitioner had already been granted anticipatory bail with respect to the said offence. The conditions had been imposed. Since the petitioner did not comply the conditions, later he filed another petition u/s 438(ii) of Cr.P.C. While passing orders in that particular petition under section 438(ii) of Cr.P.C, the learned Principal District and Sessions Judge had entered into the jurisdiction of 439(2) of Cr.p.C and had cancelled the anticipatory bail. *Prima facie* that order is non est in law.

4. Thereafter, the petitioner filed a second application seeking anticipatory bail. Holding that the conditions imposed earlier while



CrI.O.P.No.5024 of 2024

granting anticipatory bail were not complied, the second application was also dismissed. It must be kept in mind that Courts take cognizance of the offence and not the offender. If the circumstance prevail for grant of anticipatory bail, anticipatory bail is granted. It remains inforce till the completion of the trial, unless cancelled by an order which is passed under the correct provisions in the Cr.P.C, either under Section 437(5) of Cr.P.C or under Section 439(2) of Cr.P.C.

5. In view of all the reasons and particularly taking into consideration that the petitioner had already been granted anticipatory bail, this Court is inclined to grant anticipatory bail subject to the following conditions:

6. 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 No.II, Perambalur**, on condition that 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 this Court concerned, failing which, the petition for



CrI.O.P.No.5024 of 2024

anticipatory bail shall stand dismissed and on further condition that:

WEB COPY

[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 appear before the respondent police as and when required for interrogation.

[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.



WEB COPY



CrI.O.P.No.5024 of 2024

01.03.2024

smn

C.V.KARTHIKEYAN, J.

smn



WEB COPY



Crl.O.P.No.5024 of 2024

Crl.O.P.No.5024 of 2024

01.03.2024