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CrI.O.P.No.5779 of 2024

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C.V.KARTHIKEYAN, J.

The petitioners/A3, A4 and A5, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 353, 506(i), 328 of IPC and Section 24(1) of Cigarette and Other Tobacco Products Act in Crime No.274 of 2023, seek anticipatory bail.

2.The learned counsel for the petitioners stated that the petitioners are innocent persons and they have been falsely implicated in this case. He also stated that they were nothing to do with the alleged offence and this case has been foisted only for statistical purpose. Thus, he prays for grant of anticipatory bail to the petitioners herein.

3.It is the case of the respondent that on information, they went to Fukrey Hukkah Restaurant at Nungambakkam High Road in the middle of night and found the 1st and 2nd accused with the possession of banned tobacco products and using Hookah.



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4.The learned Government Advocate (Criminal Side) stated that the 1st and 2nd accused had been arrested. He also stated that these petitioners are partners of the said Restaurant and they prevented the Respondent from taking any action and even from seizing materials or from effecting arrest.

5.The earlier petition seeking anticipatory bail was dismissed on 08.01.2024 in Crl.O.P.No.28512 of 2023. The one change in circumstance is that A1 and A2 had been arrested and had been released on bail.

6.Additionally, an affidavit had been filed by A3 wherein, he had stated as follows:

“5.I submit that hereafter in future we won't involve in these kinds of acts and we also oath before this Hon'ble High Court that hereafter we will never allow anyone to smoke except in the smoking area of the restaurant and we will never mix any Tobacco Products for flavours. Also, we humbly submit that we will co-operate for the investigation of the respondent police and ready to abide any condition imposed by this Hon'ble High Court.”



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7.Taking all the factors into consideration, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the XIV Metropolitan Magistrate Court, Egmore, Chennai, on condition that the petitioners shall execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.



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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

15.04.2024

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