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CrI.O.P.Nos.9559, 9267 and 10509 of 2024

CrI.O.P.Nos.9559, 9267 and 10509 of 2024
and
CrI.M.P.Nos.8598, 8590 and 8820 of 2024

T.V.THAMIILSELVI, J.,

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 468 and 471 of IPC in Crime No.27 of 2023, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners approached the defacto complainant for creation of a Public Charitable Trust to establish an Educational Institution for which, they sought financial assistance from him. Believing their words, the defacto complainant, (who is an entrepreneur based in Oman) agreed to become a Trustee and introduced one S.Periyasamy to the petitioners and he has agreed to provide funds and M/s.Coimbatore Education Foundation Trust was established. On 17.12.2011, a Board Meeting was convened and a resolution was passed, appointing Mr.S.Periyasamy as the Chairman of M/s.Vivekananda Institute of Management Studies. The petitioners are managed and administered both the Trust and M/s.Vivekananda Institute of Management Studies from the beginning. However, in January 2019,



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the petitioners/trustees discovered that the accused Nos.1, 2 and 4 had mismanaged the accounts of the Trust and M/s.Vivekananda Institute of Management Studies, wherein a sum of Rs.1.10 crores is unaccounted for and so far, the defacto complainant identified the misappropriation to the tune of Rs.50,33,334/- has been identified by the defacto complainant. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that there are totally 4 accused in this case and that the petitioners are ranked as A1, A2, A3 and A4. They are the trustees of M/s.Coimbatore Education Foundation Trust and M/s.Vivekananda Institute of Management Studies and among other Trust, the other Trustees are managing and administering the Trust from the year of 2019 onwards and they are maintaining proper account. But, now, they have been falsely implicated in this case by the defacto complainant, who is one of the trustee gave a complaint, as if, they have misappropriated Trust funds for more than a sum of Rs.4.30 crores, which was collected from the students as fees and also alleged that as per the records, the misappropriation of amount is to the tune of Rs.50 lakhs and the remaining amount was not properly accounted to the tune of Rs.1.10 crores, thereby, all the accused



were misappropriated the Trust fund. Hence the complaint was lodged. He would further submit that they were maintaining proper accounts and they are ready to abide by any stringent conditions that may be imposed by this Court. The first petitioner is aged about 75 years and another petitioner namely Narayanasamy -A3 also aged about more than 60 years have been falsely implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned counsel for the intervener raised objection stating that from the year 2020 M/s.Vivekananda Institute of Management Studies was started by the Trustees and one Periyasamy, who is the Chairman of Institution and he contributed funds on the trustees, the accused concerned which are not maintained by the Trustees properly and misappropriated funds from the Institution. Now only they came to know that the Trust property and the contributions also not properly accounted, thereby, they have misappropriated as per accounts, *prima facie* is Rs.1.10 crores and still investigation is to be conducted. Hence, he raised strong objection.

5. The learned Government Advocate (Crl.Side) appearing for the respondent also submits that the accused No.1 to 4 conspired together and committed the breach of trust and also misappropriated the Trust



fund.

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6. Heard the learned counsel for the petitioner, learned counsel for the intervener and also the learned Government Advocate (Crl.Side) for the respondent.

7. On considering the facts, it would clearly reveals that there are two Civil Suits pending and the dispute is already pending before the Civil Court. So, there is no possibility of tampering the witness. Furthermore, considering the age of the accused more than 60 years, this Court is inclined to **grant interim anticipatory bail** to the petitioners with certain conditions. So far as A3-Narayanan is concerned, he was already retired from the Trusteeship in the year 2018 and to that effect, he relied on the Resolution Deed, dated 09.05.2018, but, that resolution was not accepted by the defacto complainant.

8. Accordingly, the petitioners are ordered to be released on **interim anticipatory bail** in the event of arrest or on their appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order before the **learned Judicial Magistrate No.VI, Coimbatore and the learned Judicial Magistrate, Annur, respectively**, on condition



that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, each **[Out of which, one surety must be a blood related one]** 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 and on further condition that:

[a] the first, second and fourth petitioners shall deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) each to the credit of Crime No.27 of 2023, within a period of two weeks from the date of receipt of a copy of this order and shall produce the said receipt before the Court below;

[b] the third petitioner shall deposit a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the credit of Crime No.27 of 2023, within a period of two weeks from the date of receipt of a copy of this order and shall produce the said receipt before the Court below;

[c] the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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[d] the first petitioner shall report before the respondent police, as and when required for interrogation;

[e] the second, third and fourth petitioners shall report before the respondent police on every Tuesday and Friday at 10.30 a.m., for a period of two months and thereafter, as and when required for interrogation;

[f] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[g] the petitioners shall not abscond either during investigation or trial;

[h] 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 has been imposed and the petitioners are released on anticipatory 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]*; and;

[i] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

Post the matter for reporting compliance on 23.07.2024.

21.06.2024

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