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Crl.O.P.No.15059 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of IPC in Crime No.158 of 2023, seeks anticipatory bail.

2.Earlier application seeking anticipatory bail had come up for consideration before this Court on 30.10.2023 in Crl.O.P.No.16061 of 2023 and the same was dismissed.

3.Heard the learned Senior Counsel on behalf of the petitioner, the learned Government Advocate (Criminal Side) on behalf of the respondent and also the learned counsel for the intervener.

4.The brief facts are that the petitioner and the defacto complainant and yet another person were partners in an enterprise



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dealing with electrical items called Sathyam Agency. The partnership firm had been in existence for quite sometime. In the year 2014, one of the partners had opted out. On 31.03.2016, the defacto complainant also opted out. This necessitated a document to be written down with respect to reconstitution of the partnership firm. Two of the partners continued. The defacto complainant had come out. The document in that regard was dated 31.03.2016 and termed as a Deed of Admission -Cum- Retirement. All the then three partners had signed the said document. According to the said document, the defacto complainant was paid his share of profits and whatever other amounts to be paid.

5. Thereafter, the defacto complainant stated that it had come to his knowledge on 27.06.2016 that a sum of Rs.2,41,55, 614/- is also due and payable to him by the petitioner. It is stated that the petitioner had also written a letter undertaking to pay such amount. This particular document had played on the mind of this Court when the earlier petition seeking anticipatory bail was dismissed. At that time an argument was advanced that the signature of the petitioner was disputed, but the Court



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had held that was an issue which could be examined only during the course of trial. But however, holding that there was an undertaking by the petitioner to pay the sum of Rs.2,41,55,614/-, the Court had dismissed the anticipatory bail petition.

6.It is now pointed out that though this document is dated 27.06.2016, the complaint by the defacto complainant seeking to lodge an FIR was actually preferred only on 01.12.2022 in Crime No.1703 of 2022. The respondent had not taken any action on the same, necessitating the defacto complainant to file a Criminal Miscellaneous Petition before the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases at Egmore. This petition was dated 14.02.2023. Orders were passed by the learned Metropolitan Magistrate on 02.06.2023. Let me not enter into a discussion about the nature of order passed, though my attention was drawn to it by the learned Senior Counsel on behalf of the petitioner.

7.Suffice to point out that the learned Metropolitan Magistrate had directed registration of FIR and to conduct further investigation. It is



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on that basis, FIR in Crime No.158 of 2023 had been registered on 29.06.2023 for the alleged offences under Sections 406 and 420 IPC. The defacto complainant was the complainant and the petitioner herein was the sole accused. The other partner who had also signed the aforementioned document was not shown as an accused.

8.The time gap from the year 2016 to 2022 was pointed by the learned Senior Counsel for the petitioner and stated that this should be viewed with seriousness by this Court.

9.But quite apart from this fact, the defacto complainant appears to have inculcated an affinity to ride two separate horses. While investigation in this particular FIR was pending and the petitioner has moved this petition seeking anticipatory bail on 25.06.2024, on the basis of the cheque which was available with the defacto complainant, a notice had been issued taking recourse to Section 138 Negotiable Instrument Act, 1881, to the wife of the brother of the petitioner herein claiming the very same amount of Rs.2,41,55, 614/-. Even to the last rupee, the



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amount is the same. There cannot be an action initiated against the petitioner who is the sole accused in FIR in Crime No.158 of 2023 and also for the same amount action proposed to be initiated against the wife of the brother of the petitioner herein. This would only indicate that the defacto complainant had opened up all avenues to put pressure to recover the said amount.

10.Even though the above may not be a compelling fact, it only reveals the conduct of the defacto complainant and therefore, I would grant anticipatory bail to the petitioner with condition that the petitioner should deposit a sum of Rs.10/- Lakhs to the credit of Crime No.158 of 2023, which is now pending before the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases at Egmore. On such deposit, the learned Metropolitan Magistrate, may transfer the amounts in a fixed deposit account in anyone of the Nationalized Banks and pass final orders on conclusion of trial.

11.Accordingly, the petitioner is ordered to be released on bail



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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 Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai), and CBCID Metro Cases, Chennai, 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 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 everyday 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.



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[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.

24.07.2024

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