**Crl. O.P. No.18878 / of 2024**

**P. DHANABAL.J.,**

The petitioner / Accused No.2, who apprehends arrest in the hands of the respondent police for the offence punishable under Sections 406, 409 and 420 of IPC in connection with the Cr. No.111 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a practising Advocate, that A1 Karthikeyan, the friend of the defacto complainant, has introduced the A2 Fathima Ezhilarasi to the defacto complainant, that A1, A2 misrepresented that they, along with A3 Sundaram and A4 Vijay, are running a financial institution under the name and style of M/s. FX Yogi Advisors & Consultants Pvt. Ltd., and induced the defacto complainant to invest amount under the pretext of getting high returns, that believing the words of the accused, the defacto complainant also invested amount totaling to the tune of Rs.37,50,000/- on various occasions and cheated the defacto complainant. The defacto complainant neither received high returns nor received back the amount deposited by him with the accused. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioners under

Sections 406, 409 and 420 of IPC and the petitioner was arrayed as A3 and his wife as A2, that he was working in a non-governmental organization for the past several years and thereafter, since he was diagnosed with Cancer, he left his job and already, one of his kidneys were removed due to cancer infection and the petitioner requires continuous health care support and constant monitoring by the Doctors, that the petitioner is no way connected with the above said offences, that the defacto complainant, the petitioner's wife and one Karthikeyan are all affected parties in the multi crore scam done by M/s. FX Yogi Advisors & Consultant Pvt. Ltd., floated by the 4th and 5th accused, that the said M/s. FX Yogi Advisors & Consultant Pvt. Ltd., represented themselves as investors in Stock market, commodity trading and informed that they are expert in Forex trading and reaping huge profits out of the same and are capable of paying 4% interest to the sums invested in their company, that the defacto complainant is also well aware of the scam played by one Sundaramoorthy and J.M. Vijay of M/s. FX Yogi Advisors & Consultant Pvt. Ltd., and he is also well aware that in no way, the wife of the petitioner or the said Karthikeyan were involved in the scam played by M/s. FX Yogi Advisors & Consultant Pvt. Ltd., that the petitioner's wife also started investing in the said company from the year 2020 believing the assurance given by JM Vijay and

Sundaramoorthy and also, for the amount invested, the said M/s. FX Yogi Advisors & Consultant will issue a loan agreement stating that they will provide 4% interest and also will issue post dated cheques, that since the said M/s. FX Yogi Advisors & Consultant company were genuine in the transaction from the year 2020 by paying the 4% interest as promised by them, the petitioner's wife also referred the said company to her friends, family and relatives, that till October 2023, there is no any dispute and suddenly an issue crept in and the investors have not received the interest for the month of October 2023 and the petitioner's wife went to the premises of M/s. FX Yogi Advisors & Consultants Pvt. Ltd., and shocked to find that the company itself was locked and the whereabouts of the said Sundaramoorthy and Vijay were not known and their mobile phones were also switched off, that thereafter, the wife of the petitioner lodged a complaint before the Commissioner of Police, Central Crime Branch and based on the said complaint, FIR was registered in Cr. No.278 of 2023 as against the said Sundaramoorthy and Vijay, that this petitioner is noway connected with the above transactions and above said crime and hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor would submit

that during the mid of April 2022, the accused namely Karthikeyan, who is well known to the defacto complainant and based on the acquaintance, he has approached the defacto complainant and informed that the persons namely Fathima Ezhilarasi @ Fathima Joseph and her husband were well known and very close to him and they are running a company under the name of M/s. FX Yogi Advisors & Consultants Pvt. Ltd., which deals with non-banking financial activities and provide huge interest to the customers and he initially had not shown any interest towards the words of the said Karthikeyan, but again the said Karthikeyan along with the said Fathima Ezhilarasi approached him and stated about the above said business, that in the said company, the accused Vijay and Sundaramoorthy were the Directors of the company and they had provided huge interest for their customers, that the said Fathima Ezhilarasi told him that she is the Managing Partner of the company and also she represented that she has been assigned with individual E-wallet in the ATHER FX account under her name and she has shown her identity card, that the said Karthikeyan and Fathima Ezhilarasi induced the defacto complainant to invest money and he initially transferred Rs.5 lakhs and he received interest for the said amount and thereafter, again he transferred Rs.5 lakhs on 20.12.2022 and thereafter, on 26.04.2023, he transferred a sum of Rs.2,50,000/- and receipts and post dated cheques were also given for the said payments, that thereafter when the defacto complainant approached A1 and stated that he needs money for his construction work, but they did not repay the said amount, but instead, they again induced the defacto complainant to invest another Rs.25 lakhs and accordingly, the defacto complainant also invested further Rs.25 lakhs and for that also, they provided post dated cheques and receipts for the said amount, that all the above transactions have only been dealt with by Karthikeyan and Fathima Ezhilarasi and he has never seen the said Vijay and Sundaramoorthy in person, that the accused have not repaid the amount deposited by the defacto complainant and therefore, the defacto complainant lodged a complaint and the petitioner along with other accused, have cheated the defacto complainant and hence strongly opposed to grant anticipatory bail to the petitioner.

5. The learned Government Advocate (Criminal Side) would submit that this petitioner is A3 and A2 is the wife of this petitioner and the accused have started a company under the name and style of M/s. FX Yogi Advisors & Consultants Pvt. Ltd., and collected funds from the public under the guise of paying exorbitant interest and thereafter, they did not repay the amount and from the defacto complainant, they obtained Rs.37,50,000/- on several dates and thereafter, they did not repay the said

amount, investigation is at initial stage and all the accused are absconding and hence strongly opposed to grant anticipatory bail to the petitioner.

Heard both sides and perused the materials available on record.

6. Considering the rival submissions on either side, considering the fact that this petitioner is not a Director or employee of the said M/s. FX Yogi Advisors & Consultants Pvt. Ltd., that even according to the complaint, all the allegations are levelled against A1 and A2, who actively participated in the scam and induced the investors to invest the amount in the company and no amount was given to this petitioner either in person or through bank account and also there is no any specific overt act attributed as against this petitioner and also considering the medical condition of the petitioner that he is a cancer patient and one of his Kidneys was already removed and now he has to take proper medication and also considering the fact that there is no previous case pending against this petitioner, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7. 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 **Judicial Magistrate Court, Chengalpattu o**n condition that the petitioner shall each 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 learned Magistrate concerned and on further condition that:

**[a] the** petitioner **shall report before the respondent police on on every Saturday at 10 a.m. until further orders;**

[b] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[c] the petitioner shall not leave India without the previous permission of the Court;

[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 269 B.N.S.2023.

27.09.2024
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**P.DHANABAL,J**
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To

1.The Judicial Magistrate Court, Chengalpattu
2. The Public Prosecutor, High Court, Madras.
3.The Inspector of Police, Guduvanchery Police Station, Guduvanchery, Chennai.

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