



Crl.O.P.Nos.28017 & 28075 of 2023

**Crl.O.P.Nos.28017 & 28075 of 2023**  
**and Crl.M.P.No.117 of 2024**

**C.V.KARTHIKEYAN, J.**

The 4<sup>th</sup> accused has filed Crl.O.P.No.28017 of 2023 and the 5<sup>th</sup> accused has filed Crl.O.P.No.28075 of 2023, both in Crime No.26 of 2023, registered by the respondent police under Sections 408, 420, 468, 471 and 477 A of IPC and Section 66A(c) of Information Technology Act, 2000, seek anticipatory bail.

2. It is the case of the prosecution that the defacto complainant was running a jewellery shop in the name of Lakshmi Jewellers at Pollachi. A1 who is the husband of A4 originally joined as a salesman and later was promoted to the Manager of the shop.

3. It is contented that he had a complete control over the stocks of jewellery available in the said Lakshmi Jewellers. It is also contented that the defacto complainant and A1 had an existing relationship and therefore the defacto complainant placed total trust on A1.



WEB COPY

4. It is further stated that A2 had joined in the said company in the year 2020 and was in-charge of computer operation. A3, who is still absconding, was the cashier of the said jewellery shop. It is also stated A1 and A2 had been arrested during the course of investigation and since final report had not been filed within the stipulated time as enunciated under Section 167(2) Cr.P.C., they had the benefit of being released on bail.

5. It must also be stated that though they had been remanded into custody, an application seeking police custody had not been filed and had not granted by the Court. In effect, they had been arrested and had been remanded in judicial custody for about 60 days and had walked out just furnishing any security.

6. It is the case of the prosecution that A1, taking advantage of the trust placed, had consistently stolen jewels which had been stocked in the said Lakshmi Jewellery shop and A2 had manipulated the computer to cover the disappearance of the stocks and show availability of the stocks. In this manner, substantial quantity of gold jewels running into kilograms had been



Crl.O.P.Nos.28017 & 28075 of 2023

taken away by A1. It is also contented that with the said amount, they/A4 and A5 had purchased properties which have identified as seen in the counter affidavit filed by the respondent.

7. It is stated that originally, on perusal of CCTV cameras fixed, the defacto complainant had found that A1 had taken away gold jewels and in this connection, a complaint was lodged. But for some reason, since there was no progress in the investigation, a further complaint was lodged to the Superintendent of Police, Coimbatore, which had been forwarded to the respondent and the FIR had been lodged.

8. These facts had been stated by the learned Senior Counsel on behalf of the petitioner who pointed out that two separate complaints had been filed on the same set up of facts.

9. It is further contended by the learned Senior Counsel on behalf of the petitioner that A4/the petitioner in Crl.O.P.No.28017 of 2023 is the wife of A1 and there is no allegation that she was directly or indirectly involved in the running of Lakshmi Jewellery Shop. It is therefore contended



Crl.O.P.Nos.28017 & 28075 of 2023

that since there is no direct overt act of any of the offences stated namely under Sections 408, 420, 468, 471 and 477(A) and r/w 66(C) I.D. Act, the Court must consider her application seeking anticipatory bail. It is also contented that the properties which had been identified also included ancestral properties which had been in existence prior to the employment of A1 with the defacto complainant. With respect to A5/the petitioner in Crl.O.P.No.28075 of 2023, it is contented that the only overt act alleged as against the said accused was that he assisted A1 in identifying properties for purchase.

10. It is contented by the learned Government Advocate(Crl. Side) for the respondent that both A4 and A5 had direct knowledge about the theft which had been committed by A1 since the properties had been purchased in their name. It is also contented that the jewels had been recovered but only a minimal extent of properties had been identified with market value of about Rs.9/- crores but the guideline value was only to an extent of Rs.1.12/- crores.



WEB COPY

11. It is therefore stated that further properties will have to be identified and the places amounts had been parked will have to be determined. It is also stated that the bank account had been frozen. It had also stated the Court should ensure that the properties so far identified should not be dealt with by the petitioners.

12. The learned counsel for the defacto complainant, who also entered appearance and filed intervening application, pointed out the facts again and stated that there is proof that it was A1 who committed the theft of the jewels and that it was A2 who manipulated the computer entries with respect to the stocks of the company. It is therefore contended that when this was originally pointed out, the defacto complainant was chased in the middle of the road necessitating the first complaint to be lodged with the nearest police station at Mamallapuram.

13. It is stated that, since there was no progress, a further complaint was lodged before the Superintendent of Police at Coimbatore on the basis of which, the First Information Report had been registered. It is



Crl.O.P.Nos.28017 & 28075 of 2023

contended that the defacto complainant had been put to substantial loss by theft committed by A1 and the acts of A2 in manipulating the computer to screen deficiencies of the stocks of the jewellery. It is contented that these applications should be dismissed.

14. I have carefully considered the arguments advanced.

15. This Court has now been presented anticipatory bail applications filed by A4 and A5 alone. A1 and A2 had been arrested during the course of investigation and had suffered incarceration for the period allowable under Section 167(2) Cr.P.C. The Investigating agency had, for some reason did not file final report and therefore, they had been granted bail in what could be termed as statutory bail. They had not been taken into police custody to determine the manner in which the entire *modus operandi* was done and the manner in which the jewelleries were stolen and the quantity of jewelleries stolen and the properties invested.

16. Now, objections are raised for granting of anticipatory bail to A4 and A5. It is a fact that A4, as wife of A1 was not directly or indirectly



Crl.O.P.Nos.28017 & 28075 of 2023

involved in the business transactions of Lakshmi Jewellery. She might have known about the offences committed by A1, but the defacto complainant had also closed his eyes during the entire period. The fact that the properties had been identified and the accounts have been frozen point out that the investigation has proceeded to a substantial extent towards recovery of the amounts.

17. So far as A5 is concerned, again the role he is said to have done is to help A1 to identify the properties and purchase the properties and invest the amounts. These are ancillary aspects. The primary offence was committed by A1 and A2. A3 is still absconding. It is stated that he was a cashier in Lakshmi Jewellery. But the role of these petitioners commenced after the actual offences had been committed. It is stated that properties had been purchased and these petitioners had assisted in such purchase. The list of properties are already available.

18. As a condition to grant anticipatory bail, I make it imperative that these petitioners should appear before the respondent to disclose every property which had been purchased and if there is no proper disclosure, the



Crl.O.P.Nos.28017 & 28075 of 2023

respondent is at liberty to file a petition seeking to cancel the anticipatory bail.

19. Both A4 and A5/petitioners are directed to appear before the respondent and they must disclose all facts and cooperate during the course of investigation about further properties in which the monies had been invested and also disclose about any other bank accounts in their name or in the name of persons who had benefited from the theft of jewellery.

20. However, taking all the other factors into consideration this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

21. 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 **Judicial Magistrate No.I, Pollachi**, 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



Crl.O.P.Nos.28017 & 28075 of 2023

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 everyday at 10.30 a.m., until further orders.**

[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 petitioner 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]**.



Crl.O.P.Nos.28017 & 28075 of 2023

WEB COPY

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

22. Consequently, connected miscellaneous petition is closed.

**23.01.2024**

rjr



WEB COPY



Crl.O.P.Nos.28017 & 28075 of 2023

C.V.KARTHIKEYAN, J.

rjr

Crl.O.P.Nos.28017 & 28075 of 2023  
and  
Crl.M.P.No.117 of 2024

23.01.2024