Crl.O.P.No.28429 of 2023

C.V.KARTHIKEYAN, J.

The petitioner seeks anticipatory bail in Crime No.34 of 2023 registered by the respondent Police for the offences punishable under Sections 406, 420, 465 and 468 of I.P.C., in Crime No.34 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the petitioner is that the petitioner and his brother are close friends of the de-facto complainant. The de-facto complainant who is living abroad, approached the petitioner to do business with the help of his brother. In this regard, several transactions were made for purchasing sewing machines through the petitioner's account. After that clothes were ordered and sent by courier to the de-facto complainant. But the code for export had not been registered. It is contended that the petitioner had made all preparations as ordered by the de-facto complainant. It is contended that the entire transaction is a commercial transaction.

3. It is the contention of the learned counsel for the intervenor/de-facto complainant that the de-facto complainant had

transferred through money transfer and by Western Union money exchange transfers, a total sum of about Rs.52,66,000/-.

4. It is stated that fake and forged promotional items were forwarded by the accused projecting as if they were running a business in Cuddalore. The money had not been returned back. The goods have not been supplied. Initially, the de-facto complainant had lodged a complaint before the C.M's office on 08.08.2023.

5.The learned Government Advocate (Crl.Side) also stated the same facts and informed that the petitioner herein has not supplied goods and had forwarded fake and false promotional items as if he was doing a business in Cuddalore, which fact was found to be false. It had been stated that there is evidence for transfer of money but no credible evidence for supply of goods.

6. The learned counsel for the petitioner however widened the scope of the arguments by filing certain documents. He stated that towards the monies which had been forwarded by the de-facto complainant, the petitioner had supplied goods worth Rs.49,69,650/-. The list of goods supplied had also been given. The first money transfer

by the de-facto complainant to the petitioner/accused was in January 2021 and 3 shipment / cash receipts had been produced by the petitioner/accused which began from February 2021 indicating supply of goods.

7. It is also stated that the petitioner herein had given a complaint against the de-facto complainant on 16.10.2023 before the Panruti Police station and it is contended that after enquiring both the petitioner and the de-facto complainant the complaint was closed. It is stated that this particular fact had not been mentioned before the Investigating Officer by the de-facto complainant.

8. The entire issue surrounds to separate statements, one by the de-facto complainant about transfer of money and the other by the petitioner/accused about shipment of goods for the amounts transferred. Those aspects can be examined only during the course of trial. At this stage, I am not inclined to render any finding about either the merits or de-merits of the statements by either side. The entire issue will have to be decided only on testing of evidence during trial.

9. 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 **learned Judicial Magistrate No.1, Panruti,** on condition that the petitioner shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties 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.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

14.02.2024

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C.V.KARTHIKEYAN, J.

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12.02.2024