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CRL O.P. No.29711 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2025

CORAM

The Hon'ble Mr.Justice P.DHANABAL

CRL OP.No.29711 of 2024

Asha W/o. Shantha Kumar

... Petitioner /Accused-6

Vs

State rep. by:-

The Inspector of Police,
Deputy Superintendent of Police,
Economic Offence Wing-II,
Chennai District.
[Cr. No.8 of 2023]

... Respondent

PRAYER:- The Criminal Original Petition is filed under Section 482 of B.N.S.S., praying to grant anticipatory bail to the petitioner/Accused in Crime No.8 of 2023 on the file of the respondent police.

For Petitioner : Mr. Gopalakrishnan.E

For Respondent : Mr. S. Balaji,
Government Advocate
(Criminal side).

ORDER



CRL O.P. No.29711 of 2024

WEB COPY

The petitioner / Accused, who apprehends arrest in the hands of the respondent police for the offence punishable under Sections 120-B, 406, 420 read with 34 of IPC, Section 5 of TNPID Act, Section 21(3), 23 and 25 of the BUDS Act and Section 76(i) of Chit Fund Act 1982 in connection with the Cr. No.371 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused persons had cheated the defacto complainant and other 166 victims to the tune of Rs.11.70 crores under the pretext of 'high returns'. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner for the offences under Sections 120-B, 406, 420 read with 34 of IPC, Section 5 of TNPID Act, Section 21(3), 23 and 25 of the BUDS Act and Section 76(i) of Chit Fund Act 1982 and this petitioner is arrayed as A6. As per the prosecution case, the petitioner along with other accused had cheated the defacto complainant and other 166 victims to the tune of Rs.11.70 crores under the pretext of 'high returns'. In fact, the petitioner has not



CRL O.P. No.29711 of 2024

committed any offence and she has been falsely implicated in this case and her husband started the company in the name of fresh bucket and the business was very prosperous for years, her husband got prestige in the public and in the year 2023, there was heavy loss in the business and the co-workers in the company have cheated the husband of the petitioner. In the meanwhile, investors visited the stores and demanded investment returns and at that time only, her husband came to know about the cheating made by the partners and co-workers. Therefore, the petitioner has not involved in any business activities and she has just given birth to a female baby and now the baby is aged only three months and she is ready to co-operate for the investigation. Already prime accused were released on bail by this Court. The earlier anticipatory bail application filed by the petitioner was dismissed on 29.08.2024 and now the investigation is almost completed and hence prayed to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that based on the complaint given by the defacto complainant, FIR has been registered. In fact, the defacto complainant invested money



CRL O.P. No.29711 of 2024

to the tune of Rs.18 lakhs in the company named as 'Fresh Basket and Agro Trade' in the month of July 2022 and only Rs.3,08,000/- was returned to him and thereafter, no repayment was made to him. When the defacto complainant approached the accused company, they assured to settle the matter and thereafter, one Asha contacted the defacto complainant over phone and conveyed that a cheque has been sent through courier and the same was also received and deposited for collection, but the said cheque was returned as 'insufficient funds'. Thereafter, the defacto complainant lodged a complaint and based on the complaint, FIR has been registered. This petitioner has signed in the rental agreement for the company and submitted her ID proof for opening the bank account. Therefore, she has directly participated in the occurrence and investigation is at initial stage. So far, 170 complaints have been received to the tune of Rs.11.70 crores. Some of the properties were attached. Huge money is involved in this case and therefore, he strongly opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record.



CRL O.P. No.29711 of 2024

WEB COPY

6. Considering the rival submissions on either side, the nature of offences, in this case, this petitioner has been arrayed as A6 and her husband has been arrayed as A5, according to the petitioner, her husband only started the business and he only actively participated in the business, being his wife, the petitioner signed in the documents and she has not involved in any business and taking into consideration the fact that this petitioner is only wife of A5, who involved in the business and she has given birth to a female baby and the baby is now aged 3 months, the case is pending from 2023 onwards and the respondent police have not taken any steps to secure the accused and already co-accused were released on bail and investigation was almost completed and also considering the undertaking given by the petitioner that she will co-operate for the investigation, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

7. Accordingly, the petitioner ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days



CRL O.P. No.29711 of 2024

from the date on which the order copy made ready, before the learned **Special Judge under TNPID Court, 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 learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10 a.m. for a period of 15 days and thereafter, on every Saturday at 10.00 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[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



CRL O.P. No.29711 of 2024

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 269 B.N.S.2023.

06.01.2025

mjs

To

1. The Special Judge under TNPID Court, Chennai.
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police, Deputy Superintendent of Police, Economic Offence Wing-II, Chennai District.

P.DHANABAL,J

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CRL O.P. No.29711 of 2024

CRL O.P. No.29711 of 2024

06.01.2025