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CRL O.P. No.32314 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2025

CORAM:

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL O.P. No.32314 of 2024

B. Kalaivani W/o. Boopal Charavarthy ... Petitioner /
Accused

Vs

State rep. by:-

The Inspector Of Police,
M-5 Police Station,
Ennore, Chennai-57. ... Respondent
[Cr. No.850 of 2024]

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.850 of 2024 on the file of the respondent police.

For Petitioner : Mr. Nirmal Kumar
For Intervenor: Mr. A. Mohan

For Respondent : Mr. S. Balaji,
Government Advocate
[Criminal side]



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ORDER

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The petitioner / Accused, who apprehends arrest in the hands of the respondent police for the offence punishable under Section 316(5) of B.N.S. in connection with the case in Crime No.850 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant was running a company in the name and style of M/s. Rohit Enterprises; that on the advise of his Auditor, who happens to be the brother of the petitioner, he had done the business of export with the petitioner on the understanding that the defacto complainant would pay commission to the petitioner for the business; that the defacto complainant had transferred a sum of Rs.26,90,000/- to the petitioner for remitting the same to the exporter from China and towards the sale consideration; that instead of sending the same to China, the petitioner had retained the said amount in her account itself.

3. Learned counsel for the petitioner would contend that the



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petitioner is an innocent; that she has been falsely implicated in this case; that because of business transactions, the defacto complainant is due to pay commission to her and the money that was transferred to the account, is the due amount, payable to her and that in any case, custodial interrogation of the petitioner is not required and hence prayed to grant anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor / defacto complainant, however vehemently opposed to grant anticipatory bail to the petitioner, submitted that the petitioner had given an undertaking that she would not misappropriate any amount and would take commission only after the entire amount is paid. He further submitted that the petitioner has cheated the said amount.

5. The learned Government Advocate (Criminal Side) appearing for the respondent, on instructions, would submit that the petitioner's account has been frozen by the respondent police and that investigation is pending.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent police and perused the materials available on record.

6. Considering the nature of allegations, that there were business transactions between the parties, that admittedly, even as per the FIR, since the petitioner's account has been frozen and the case is borne out of records, there is no chance of tampering of evidence and since the custodial interrogation of the petitioner is not required for the purpose of investigation, this Court is inclined to grant anticipatory bail to the petitioner on certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Tiruvottiyur, Tiruvallur District** on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees**



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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 conditions that:

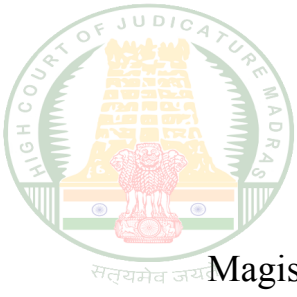
[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police twice a week i.e., Monday and Thursday 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



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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 269 B.N.S.

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mjs

To

- 1.The Judicial Magistrate, Tiruvottiyur, Tiruvallur District
2. The Public Prosecutor, High Court, Madras.
- 3.The Inspector Of Police, M-5 Police Station, Ennore, Chennai-57.

SUNDER MOHAN. J.,

mjs



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