

*Crl.O.P.No.7776 of 2022*

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**Dr.G.JAYACHANDRAN, J.**

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The petitioners, who apprehend arrest for the alleged offence **under Sections 354, 354B, 354C, 506(i) IPC altered into Under sections 376, 354B, 354C, 506(i) and 3(1)(w) of SC & ST (Prevention of Atrocities) Act** in Crime No.4 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. Heard the counsel for the petitioner and the learned counsel for the defacto complainant and also the learned Government Advocate (Crl. Side) appearing for the respondent police.

3. This Case has exposed malady prevailing in the IIT, Madras, where the defacto complainant was alleged to have been put to sexual harassment by a Co-Scholar and the complaint of the defacto complainant to her Guide and Co-guide have not been taken serious note of till the CCSAH Committee of the IIT took connivance of the complaint, when the defacto complainant forwarded her complaint through e-mail from her native place.



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4. Initially, the case has been registered in Crime No. 4 of 2021 under Sections 354, 354B, 354C and 506(i) IPC as against one Kingshuk and others, in which, the said kingshuk is the main accused who was alleged to have harassed the defacto complainant while going for study room and the lab. Later on, charges have been altered, since the victim girl hails from scheduled community. Hence, the provision of **section 3(1)(w) of SC & ST (Prevention of Atrocities) Act** also been added.

5. These two petitioners are guide and co-guide of the defacto complainant and their names were not found in the FIR registered based on the complaint given by the defacto complainant, but later on, the probe has indicated the commission and omission of these two persons who have encouraged A1 to commit the alleged offence of sexual harassment.

6. The statement of the victim girl under Section 164(5) Cr.P.C was recorded by the learned Magistrate and the same was perused and the submissions of the learned Government Advocate(Crl. Side) and the Counsel for the defacto complainant are also heard.



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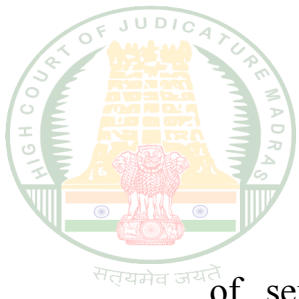


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7. The primary objection in entertaining the present anticipatory bail petition was that the alleged offence against the petitioners attracts **Section 3(1)(w) of SC & ST (Prevention of Atrocities) Act** and hence anticipatory bail is not permitted. For this, the learned Counsel for the petitioner would submit that, recently the Hon'ble Supreme Court has held that when there is no *prima facie* made out against the accused persons in the FIR, the Court can entertain the anticipatory bail petition **under Section 438 of Cr.P.C.**

8. In this case, the entire reading of statement recorded under Section 164(5) of Cr.P.C of the victim girl, shows that the defacto complainant implicated only A1 who was ill-treating her based on her community and further he hails from the same State of the defacto complainant and he was aware of the community. As far as these two petitioners are concerned, there is no resemblance of offence under **Section 3(1)(w) of SC & ST Act.** Hence, this Court is inclined to entertain this anticipatory bail petition.

9. It is now stated by the learned Government Advocate (Crl. Side) that prior to the proceedings of the Director General of Police dated 09.04.2022, the investigation has been transferred from All Women Police Station in Crime No 4 of 2021 to CB-CID for further investigation.



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10. Initially, it appears that the defacto complainant made allegation of sexual harassment only against A1, subsequently, there are some allegations against A9 about sexual harassment in the Lab. However, this Court finds that in a lab where there are many scholars present, such incident could not have happened, which is a matter for evidence. For this purpose, the detention of petitioner in prison or keeping them in Judicial Custody is not required. Hence, this Court is inclined to grant anticipatory bail to the petitioners **with a condition that if the petitioners want to go abroad for academic purpose, that could be done only on obtaining prior permission of the learned Principal Judge, Chennai.**

11. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned **XVIII Metropolitan Magistrate, Saidapet, Chennai** on condition that the petitioners shall execute separate bonds for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) each, 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 and on further condition that:



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(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(c)the petitioners shall report before the Investigating Officer daily at 10.30. a.m., until further orders.

(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 petitioners in accordance with law as if the conditions has 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]*; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

20.04.2022

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