

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18190 of 2018

1.K.Manivarma
2.K.M.Hariharan
3.K.M.Narayanan @ Kutty
4.K.M.Vanitha

VS

..Petitioners

State rep. by its
The Inspector of Police,
District Crime Branch,
Tiruvannamalai District.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., praying to modify the anticipatory bail condition to deposit Rs.10,00,000/- each in the nationalised bank passed in Crl.M.P.No.1892 of 2018 dated 22.06.2018 on the file of the Principal District and Sessions Judge, Tiruvannamalai District.

For Petitioners :Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates
For Respondent :Mr.C.Raghavan, Govt. Advocate

O R D E R

On the complaint lodged by Arumugam, the respondent Police have registered a case in Crime No.6 of 2018 on 14.02.2016 under Section 465, 468, 471, 420 and 120[b] IPC against the petitioners herein. The petitioners filed Crl.M.P.No.1892 of 2018 before the District and Sessions Judge, Tiruvannamalai under Section 438 Cr.P.C. for anticipatory bail. Learned I Additional District and Sessions Judge, Tiruvannamalai, by an elaborate order, granted anticipatory bail to the petitioners on condition that each of the petitioners should deposit Rs.10,00,000/- [Rs.40,00,000/- totally] in any nationalised bank and submit the deposit receipt to the Court. Challenging the said condition, the petitioners filed Crl.M.P.No.2399 of 2018 and the same has been dismissed on the short ground that the remedy to the petitioners is to approach only the High Court and not the same Court, which had imposed the conditions. Hence, the petitioners are before this Court.

2.Heard the learned counsel for the petitioners/accused and the learned Government Advocate appearing for the respondent.

3.Learned counsel for the petitioners submitted that the petitioner had mortgaged their property with the de facto complainant for Rs.32,00,000/- and that, when they were not able to pay the mortgage, the de facto complainant initiated civil action against the petitioners. Learned counsel also contended that one Venkatesan, the brother of the de facto complainant herein had given a compliant in Crime No.14 of 2016 on similar allegations. While granting anticipatory bail to the petitioners, this Court in Crl.O.P.No.14038 of 2016 has recorded as follows :

"5.It is represented by the learned counsel for the petitioner that the mortgaged amount of Rs.32Lakhs, which is not in dispute had already been paid to the second respondent-de facto complainant. Learned counsel further submitted that the said amount had been paid belatedly and the interest amount is due from the accused."

4.In this complaint, it is alleged by the de facto complainant that the petitioner had included the property belonging to the Tiruvannamalai Murugan Temple as part of the schedule and cheated him. However, the learned I Additional Sessions Judge, Tiruvannamalai, in the order dated 22.06.2018 in Crl.M.P.No.1892 of 2018, has observed that the prosecution has not produced any material to show that the petitioners had usurped the land belonging to the Murugan Temple. In fact, there is a finding in paragraph No.18 to the effect that there are no prima facie materials against the petitioners/accused. Of course, such a finding in the order granting anticipatory bail cannot have any barring on the investigation or trial.

5.After giving such a finding, the I Additional Sessions Judge had rightly granted anticipatory bail to the petitioners. But, however, the condition relating to deposit of Rs.10,00,000/- each is indeed onerous, in the facts and circumstances of the case. In such view of the matter, this petition is allowed and the condition imposed by the learned I Additional District and Sessions Judge, Tiruvannamalai in Crl.M.P.No.1892 of 2018 dated 22.06.2018, in paragraph No.19 [b] relating to deposit of Rs.10,00,000/- each stands deleted. Rest of the conditions shall remain the same. Two weeks time is extended from the date of receipt of a copy of this order to comply with the order passed by the Sessions Judge.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Principal District and Sessions Judge,
Tiruvannamalai District.

2.I Additional,District and Sessions Judge,
Tiruvannamalai.

3.The Inspector of Police,
District Crime Branch,
Tiruvannamalai District.

4.The Public Prosecutor,
High Court, Madras.

+lcc To M/s.K.M.Vijayan Associates,Advocates,S.R.No.47440

CRL.OP.No.18190 of 2018

BM 19/08/2018



WEB COPY