

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.13378 of 2020

and Crl.M.P.No.5309 of 2020

1.Hussain Mohamed
2.Navshath Mohamed
3.Wahitha Rahman

... Petitioners/A1-A3

Vs.

State Represented by,
The Inspector of Police,
J-3, Guindy Police Station,
Chennai District.
Crime No.247 of 2019.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.247 of 2019 pending on the file of the respondent police.

For Petitioners : Mr.G.Vinodhkumar

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

For Intervenor : Mr.S.Nagarajan

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 341,294(b),420,323 and 506(ii) of IPC, in Crime No.247 of 2019, on the file of the respondent police have filed this petition, seeking anticipatory bail.

2. The case of the prosecution as per the defacto complainant Kaliammal is that for the past 7 years the 1st accused has been running a company in the ground floor of the premises

belonging to her by paying an amount of Rs.21 lakhs. When the defacto-complainant asked the petitioners to vacate the premises, the petitioners had demanded a sum of Rs.90 lakhs and also threatened the defacto complainant and assaulted her, based on which, the case was registered.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false complainant has been foisted against them in order to evict them from the premises through police action without following due process of law. He would also submit that the defacto complainant had entered into a registered mortgage with the petitioners, in respect of the property on 17.03.2015 and also received an amount of Rs.7 lakhs initially and thereafter, on 11.04.2018, the defacto complainant had taken a further amount of Rs.40 lakhs and she had also assured that the amount will be repaid. Thereafter, a lease agreement was entered on 10.04.2018 and the defacto complainant had further received an amount of Rs.5 lakhs. Later, she had also received a further sum of Rs.40 lakhs on 11.04.2018. The amount of Rs.47 lakhs has been handed over to the de-facto complaint by way of registered mortgage deed which was registered at the office of Joint Sub-Register, South, Chennai by Document No.2998 of 2015 and 3264 of 2018. Having received such huge amounts, the de-facto complainant now wants to evict the petitioners by force by filing a false complaint. He would submit that the petitioners and his family members were assaulted by the defacto complainant's mother and husband. The entire episode has been recorded in the CCTV camera fixed in the said premises. On the complaint given by the petitioners a case has been registered in Cr.No.245 of 2019 and only as a counter blast the present case has been given.

4. The learned Additional Public Prosecutor would oppose stating that the petitioners had paid a sum of Rs.21 Lakhs under lease agreement. The petitioners refused to vacate the premises and are running a company and when it was questioned by the defacto complainant, the petitioners assaulted the defacto complainant and caused grievous injuries. The petitioners have paid a sum of Rs.21 lakhs as advance and they are now claiming Rs.90 lakhs to vacate the premises.

5. The learned counsel for the Intervenor would submit that the petitioners came with the lease agreement to the premises of the de-facto complainant and paid a sum of Rs.7 lakhs, whereas they are demanding a sum of Rs.90 lakhs to vacate the premises. When the same was questioned by the de-facto complainant, they have assaulted the de-facto complainant.

6. Heard the learned counsel and perused the materials on record.

7. Taking into consideration the facts and submissions made by the learned Counsels, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before **the learned IX Metropolitan Magistrate, Saidapet, Chennai** on condition that the petitioners shall execute a separate 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 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 petitioners 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 petitioners/A1 & A2 shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter on every Monday at 10.30 a.m., until further orders.**

[c] **the petitioner/A3 shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.**

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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 have 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]***.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered. Consequently, connected miscellaneous petition is closed.

-sd/-
16/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE IX METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
J-3 GUINDY POLICE STATION,
CHENNAI DISTRICT.

+1 CC to M/S. G.VINODHKUMAR Advocate on payment of necessary charges SR.NO.6334

CRL OP.13378/2020

&

Crl MP.5309/2020

Date :16/09/2020

GKS:29/09/2020

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