

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 14000 of 2020

1. Balasubramaniam
2. Ponnuthayee
3. B. Abirami
4. B. Thiruvassagam

... Petitioners

Vs.

The State Represented by the
The Inspector of Police,
District Crime Branch,
Coimbatore, Coimbatore District.
(Crime No.1173 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in Crime No.1173 of 2020, on the file of the respondent police.

For Petitioners : Mr.S.Suresh

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

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(B), 420 and 380 of Indian Penal Code, 1860, in Crime No.1173 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Devaki is that the property of the A1 was brought on auction due to default of paying the loan amount to the bank. To save the petitioners' land, the petitioner induced the de-facto complainant to pay a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) to the bank for avoiding auction on the assurance of execute the sale deed in favour of the de-facto complainant. On the assurance given by the A1, the de-facto complainant has paid a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) and thereafter, the petitioners have cheated the de-facto complainant by not executing the sale deed. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and due to civil dispute between the petitioners and the de-facto complainant, a false case has been foisted against the petitioners. He would submit that the market value of the property is more than 36 lakhs and the de-facto

complainant has paid only a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) to the Bank and the original document is also available with the defacto complainant thereby the petitioners are unable to execute the sale deed in favour of the de-facto complainant for a lesser amount. He would submit that the de-facto complainant has already filed a suit for specific performance before the Civil Court and it is pending. He would further submit that the petitioners without prejudice to their rights are prepared to deposit Rs.20 lakhs to the credit of the Crime No.1173 of 2020. Hence, he prayed to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the A1 has induced the de-facto complainant on the promise of executing the sale deed in favour of the de-facto complainant. Based on the inducement, the de-facto complainant has paid a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) to the Bank and a further amount of Rs.2,00,000/- (Rupees Two Lakhs only) to the A1 and thereby the property was saved from Bank/Public auction. However, after the property was saved from auction, the petitioners have refused to execute the sale deed in favour of the de-facto complainant and cheated her. Hence, he opposed for granting anticipatory bail to the petitioners.

5. The learned counsel for the intervenor would submit that the petitioners induced the de-facto complainant on the assurance of executing the sale deed in favour of the de-facto complainant. Based on which, the de-facto complainant has paid a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) to the Bank and a further amount of Rs.2,00,000/- (Rupees Two Lakhs only) to the accused and saved the property from Bank Auction and now the petitioners are refusing to execute the sale deed in favour of the de-facto complainant. Hence, he opposed for grant of anticipatory bail to the petitioners.

6. Taking into consideration the facts and circumstances and the submissions made by the learned counsels and the fact that the petitioners have offered to deposit Rs.20 lakhs to the credit of crime number to show their bonafides, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance within a period of fifteen days from the date on which the copy of this order is made ready before the learned Judicial Magistrate No.I, Pollachi, on condition that the petitioners shall deposit Rs.20 lakhs to the credit of the crime no.1173 of 2020 and each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five 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:

(b) the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the first and fourth petitioners shall report before the respondent police everyday at 10.30 a.m for a period of two weeks and thereafter every Monday and Friday at 10.30 a.m until further orders and the second and third petitioners shall report before the respondent police at 10.30 a.m for a period of two weeks and thereafter as and when required.

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigating or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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 absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

29/09/2020

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 JUDICIAL MAGISTRATE,
NO.I, POLLACHI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE, COIMBATORE DISTRICT.

CC to M/S.S.SURESH Advocate on payment of necessary charges

CRL OP.14000/2020

Date :29/09/2020

RVR 09/10/2020



WEB COPY