

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.OP.No.14696 of 2020

and

Crl.M.P.No.5889 of 2020

1. D.Navamani Vedamanickam

2. N.Esther Shobana

... Petitioners

Vs.

The State represented by
The Inspector of police,
Vadapalani Police Station,
Chennai-26.

Crime No.90 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Crime No.90 of 2020 on the file of the respondent police.

For Petitioners : Mr.E.C.Ramesh

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

For Intervenor : Mr.Peranban

O R D E R

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences publishable under Sections 406 and 420 of IPC in Crime No.90 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution, as per the defacto complainant Rajalakshmi, is that the the accused had approached the defacto complainant and informed her that they have started a good business and that they needed an investment of Rs.30 lakhs and they promised that they will pay a monthly return of Rs.30,000/- for such investment. Believing the assurance given by them, the defacto complainant had invested Rs.5 lakhs on 14.03.2017, Rs.5 lakhs on 15.05.2017, Rs.10 lakhs on 04.09.2017 and another Rs.10 lakhs on 25.09.2017 totaling to Rs.30 lakhs.

The accused have not returned the principal nor paid the

monthly return as assured by them. Thereafter, when the defacto complainant had gone to see the company, it was not there at the given address and thereby, the accused had cheated her. Hence, the compliant.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the defacto complainant is a financier and it is true that the petitioners have received Rs.10 lakhs for the development of their business. He would submit that the petitioners have neither induced the defacto complainant to invest in the company nor they have promised to induct the defacto complainant in the company. He would reiterate that the petitioners had actually borrowed only a sum of Rs.10 lakhs from the defacto complainant on 04.09.2017. The defacto complainant being a usurious money lender, had received interest @ 42% and till September 2019, the petitioners have paid interest of Rs.7 lakhs. He would submit that now the petitioners have approached the defacto complainant and agreed to settle the principal by three instalments by giving post dated cheques with an assurance to honour the cheques in the following manner i.e. Rs.1,00,000/- on 07.11.2020, Rs.4,50,000/- on 07.02.2021 and another Rs.4,50,000/- on 07.04.2021 and that the defacto complainant has also agreed to receive it towards security. He would further submit that the petitioners have also handed over three post dated cheques vide cheque Nos.734621 for Rs.1,00,000/-, No.734623 for Rs.4,50,000/- and No.734622 for Rs.4,50,000/- to the defacto complainant. He would further submit that the petitioners have also filed an affidavit of undertaking before this Court assuring to honour the commitment by clearing the cheques on the particular dates. Hence, he seeks for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that there are totally four accused persons in this case and the petitioners are arrayed as A2 and A3. He would further submit that the petitioners induced the defacto complainant that they will be giving good returns and made the defacto complainant to invest Rs.30 lakhs in their company and later cheated her. He would submit that there is no other case against the petitioner. However, he vehemently opposed for grant of anticipatory bail.

5. The learned Counsel for the Intervenor would submit that the petitioners have cheated the defacto complainant to the tune of Rs.30 lakhs on the false assurance of giving good returns. He would further submitted that the petitioners have issued three post dated cheques to the defacto complainant.

6. Taking into consideration the facts and circumstance of the case and the submissions made by the learned Counsels and the fact that the petitioners have agreed to pay the amount to the defacto complainant in three instalments by issuing post dated cheques and that they have also filed an affidavit of undertaking before this Court assuring to honour the commitment, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

[a] Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days from the date on which copy is made ready, before the XVII Metropolitan Magistrate, Saidapet, Chennai on condition that the petitioners shall execute a 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:

[b] 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

[c] the first petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter on the first working day of every month at 10.30 a.m., until further orders.

The second petitioner shall appear before the respondent daily at 10.30 a.m. for a period of one week and thereafter as and when required for interrogation.

[d] the petitioners shall produce the acknowledgement for having handed over the three post dated cheques to the defacto complainant, before the concerned Magistrate at the time of executing bond.

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

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

[g] On breach of any of the aforesaid conditions, the learned Magistrate 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 himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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

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

8. However, the learned counsel for the Intervenor is entitled to file a petition for Cancellation of anticipatory bail, if the cheques are not honoured.

-sd/-
16/10/2020

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 METROPOLITAN MAGISTRATE NO.XVII,
SAIDAPET, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VADAPALANI POLICE STATION,
CHENNAI-600 026.

+1CC to M/S.E.C.RAMESH Advocate on payment of necessary charges SR NO.7059

CRL OP.14696/2020
& CRL.MP.5889/2020

Date :16/10/2020

MK:23/10/2020

WEB COPY