

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.10.2020

CORAM

THE HON'BLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15992 of 2020

1.G.Marimuthu
2.S.Susila

... Petitioners

Vs.

State represented by
The Inspector of Police,
R-10, M.G.R. Nagar Police Station,
Chennai.
(Crime No.128 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioners on bail in the event of their arrest in Crime No.128 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.S.Arivazhagan

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

ORDER

(This case has been heard through video conference)

The petitioners who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 420 and 406 of IPC in Crime No.128 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners were running a real estate business and they have borrowed a sum of Rs. 5,20,000/- from the defacto complainant on the assurance of arranging land. However neither the land was secured nor the money was returned. Hence, the complaint.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent person and they have not committed any offence as alleged by the prosecution and due to the money dispute, a false case has been foisted against them. He further submitted that the petitioners knows the defacto complainant for several years and the petitioners had borrowed a sum of Rs.5,20,000/- for his business needs on promising to repay the same. The petitioners issued the cheques for security purpose, when presented for collection, the same was returned. He further submitted that the defacto complainant has not filed any private complaint under Section 138 of NI Act. He would further submit that the petitioners are ready to

deposit a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) jointly, to the credit of crime No.128 of 2020. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners were running a real estate business and they have borrowed a sum of Rs. 5,20,000/- from the defacto complainant on the assurance of arranging land. However neither the land was secured nor the money was returned. Thereby, they cheated the complainant. He further submitted that there are no previous cases pending against the petitioner. However, he opposed for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. 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 a copy of this order is made ready, 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 XXIII Metropolitan Magistrate Court, Saidapet, Chennai-600 015, 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 shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioners shall deposit a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) jointly, to the credit of Crime No.128 of 2020, before the concerned Magistrate, within a period of two weeks from the date on which the order copy made ready.

[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.

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

-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 XXIII METROPOLITAN MAGISTRATE,
COURT, SAIDAPET, CHENNAI-600 015.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
R-10, M.G.R. NAGAR POLICE STATION,
CHENNAI.

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

CRL OP.15992/2020

Date :16/10/2020

RVR 02/11/2020

WEB COPY