

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.16966 of 2020

1.D.N.Sutharsun
2.Pushpa

... Petitioners

Vs.

State Rep. By
The Inspector of Police,
S.13, Chrompet Police Station,
Chengalpattu District.
(Cr.No.627 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 by the respondent police in Crime No.627 of 2019 pending on the file of the respondent police.

For Petitioners: Mr.E.Kotteswaran

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor
in CRL OP.16966/2020

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor
in CRL MP.390/2021

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 406, 420 and 120B of IPC, in Crime No.627 of 2019, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mohamad Amjath is that the 1st petitioner approached him and agreed to sell his mother's property measuring 21 cents at Rs.10,00,000/- and received an advance of Rs.1,50,000/- and gave the original documents and gave power of attorney. Later an amount of Rs.1,00,000/- was transferred to the account of the 2nd petitioner. Later the defacto complainant came to know that it is the habit of the accused to enter into registered agreements and

cheat. While so the defacto complainant asked for return of the advance, whereas both the accused on 28.10.2019 cunningly called the defacto complainant to Chrompet Grand Hotel snatched the original document and ran away.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would submit that a case of money dispute has been falsely projected as a case of cheating. No such incident happened and since the defacto complainant has relatives in the police department a false case has been registered. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners have cheated the defacto complainant after receiving a sum of Rs.5,00,000/- in the guise of selling the land and later snatched the original document and ran away and have not returned the advance also. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. Heard both sides and perused the materials available on record.

6. 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;

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **(*)the learned Judicial Magistrate-I, Tambaram**, on condition that each of 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 shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 until further orders.

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

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

[e] 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]*.

[f] 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.

-sd/-
09/11/2020

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.

(*) Amended and Time granted by this Court to comply with the conditions imposed vide order dated 09.11.2020 in CrI.O.P.No.16966 of 2020 is extended for a further period of two weeks from the date of receipt of amended copy of this order, as per order of this court dated 22/01/2021 in CRL MP.390/2021.

TO

1 (*) THE JUDICIAL MAGISTRATE-I,
TAMBARAM.

2 THE JUDICIAL MAGISTRATE COURT,
TAMBARAM.

3 THE CHIEF JUDICIAL MAGISTRATE,
CHENGALPET [FOR INFORMATION].

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
S-13 CHROMPET POLICE STATION,
CHENGALPATTU DISTRICT.

+1 CC to M/S.E.KOTTESWARAN Advocate on payment of necessary
charges SR.No 724

CRL OP.16966/2020

Date :09/11/2020

MN-03/12/2020

MN-29/01/2021



WEB COPY