IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION NOS.34347 & 34387 OF 2019

VENKATESH [PETITIONER / ACCUSED IN CRL.OP.NO.34347 OF 2019] AND CRL.MP.NO.2678 OF 2020

RAVI CHANDRAN [PETITIONER / ACCUSED IN CRL.OP.NO.34387 OF 2019 AND CRL.MP.NO.2677 OF 2020]

Vs

STATE REP BY
INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
TIRUPPUR CITY,
TIRUPPUR
CRIME NO.18 OF 2019

[RESPONDENTS / COMPLAINANT IN BOTH THE PETITIONS]

For Petitioner : M/S.P.S.RAMAN Advocate
M/S. B.MOHANRAJ Advocate
[IN CRL.OP.NO.34347 OF 2019]

For Petitioner : M/S.P.S.RAMAN Advocate
M/S. OJAS LAW FIRM Advocate
[IN CRL.OP.NO.34387 OF 2019]

For Respondent : M/S.S.THANKIRA, Govt. Advocate (Crl. Side)
[IN BOTH THE PETITIONS]

For Intervenor : M/S.P.SARAVANA SOWMIYAN Advocate
[IN BOTH THE PETITIONS]

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 417 and 420 of IPC in Crime No.8 of 2019, seek anticipatory bail.

2. The case of the prosecution is that the de-facto complainant SRG Apparels Limited, is a 100% vertically Integrated Textile Unit at Tiruppur. One of the division of the company is a Dyeing unit, with Zero Liquid Discharge Effluent Treatment Plant (ETP). The accused company had approached the de-facto complainant stating that they have expertise in installation of Effluent Treatment Plant and based on the representation and assurance to treat the effluent water to the volume of 1200 KLD, the de-facto complainant entered into O & M agreement on 28.03.2019 with the accused. The accused have not kept up their promises and assurances and they have not installed the Effluent Treatment Plant as per the commitment and due to the failure in commitment, the de-facto complainant was unable to run the factory which resulted in huge losses amounting to crores of rupees. By the false statements and assurances of the accused, the de-facto complainant entered into an agreement and later it was found that the accused company had declared a false CIN number and thereby the accused cheated the de-facto complainant. Hence, the complaint was registered.

3. The learned Senior counsel for the petitioners would submit that the petitioners' company is engaged in the business of installing effluent water treatment plant in factories. Based on the agreement dated 28.03.2019, the petitioners have installed machineries worth about Rs.8,00,00,000/- in the premises of the de-facto complainant, and that the machineries have also been working in good condition. On 15.09.2019, the de-facto complainant had issued a cheque for a sum of Rs.34,88,830/- towards outstanding due to the petitioners and later without any valid reasons on 17.09.2019, stopped the payment of the cheque and issued termination notice. The petitioners have filed a Liquidation Petition before the NCLT towards non-payment of Rs.34,88,830/- due to them and the de-facto complainant has also filed a counter petition against the petitioners before the NCLT. While so, a false complaint has been given, as if the petitioners have cheated the de-facto complainant. The learned Senior Counsel further submitted that an alleged case breach of contract has been projected as a case of cheating and the de-facto complainant in order to evade payment due to the petitioners had by using police force illegally attempted to bring the petitioners for settlement under the threat of arrest and coercion. Hence, he prayed to grant anticipatory bail to the petitioners.

4. The learned counsel for the intervenor would submit that the petitioners on inducement and false assurances that they have got expertise in installing Effluent Treatment plants capable of treating 1200 KLD of effluent made the defacto complainant to believe and enter into an agreement for installation of Effluent Treatment Plant and thereafter failed in their commitment by installing substandard machines and cheated the defacto complainant. Further they have also by giving a false CIN number have cheated the defacto complainant.

5. The learned Senior Counsel for the petitioners would submit that the CIN number mentioned in the invoice belongs to the petitioners' parent company and the petitioners have not cheated the de-facto complainant.

6. The learned Government Advocate would submit that based on the false assurances given by the petitioners, the de-facto complainant has installed the machineries worth about 8,00,00,000/- in the factory. However, the machineries have not worked properly resulting in severe loss to the de-facto complainant.

7. I have gone through the First Information Report and typed set of papers filed along with the petition.

8. Heard the learned Senior counsel for the petitioners and the learned counsel for the intervenor and also the learned Government Advocate appearing for the respondent police.

9. Taking into consideration the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners.

10. It is seen from the records, that already by an order dated 20.12.2019, this Court has granted interim anticipatory bail to the petitioners and the petitioners have also appeared before the Judicial Magistrate-I, Tiruppur and executed sureties and they have also complied with the conditions by reporting before the respondent police daily at 10.30 a.m for a period of two weeks.

11. Therefore, the order in Crl.O.P.No.34347 of 2019 and Crl.O.P.No.34387 of 2019 dated 20.12.2019 is made absolute and the learned Magistrate is directed to accept the same sureties already executed by the petitioners. After four weeks from the date of receipt of this order, the petitioners are directed to appear before the respondent police daily at 10.30 a.m., for a period of one week and thereafter as and when required for the interrogation.

-sd/-
10/03/2020

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.II,
TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
TIRUPPUR CITY.

5 THE ASSISTANT REGISTRAR
TAMIL NADU MEDIATION AND CONCILIATION CENTRE,
HIGH COURT, CHENNAI-600 104.

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

+2CC to M/S.M/S. OJAS LAW FIRM Advocate on payment of necessary charges SR NO.4949

+1CC to M/S.P.SARAVANA SOWMIYAN Advocate on payment of necessary charges SR NO.4864

CRL OP NOS.34347 & 34387 OF 2019

Date :10/03/2020

MK:21/05/2020