



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/03/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.4457 of 2020

1. Creeda Sudhasini

2. David Prathap Singh

... Petitioners/Accused Nos.1 & 2

Vs

State Rep.by

The Inspector of Police,

Crime Branch, Madurai.

(Crime No.16 of 2020)

... Respondent/Complainant

For Petitioners: M/s.C.Vakeeswaran, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.Karthikeya Venkatachalapathy, Advocate

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

PRAYER :-

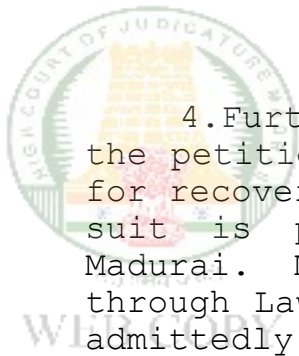
For Anticipatory Bail in Crime No.16 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under section 420 of I.P.C., in Crime No. 16 of 2020 on the file of the respondent police, seek anticipatory bail.

3.The defacto complainant has given a complaint alleging that he and the first petitioner entered into a construction agreement and in the course of the contract nearly a sum of Rs.2 Crores 5 Lakhs not been paid by the first petitioner on completion of the work as per the contract and approval of the Architect whereas the petitioners who are husband and wife would submit that contract was only between the defacto complainant and the second petitioner. Just to harass and extract money, a criminal complaint has been lodged against the petitioners.



4.Further, due to non-execution of the work as per contract, the petitioners have incurred loss and has already initiated a suit for recover of Rs.11 Lakhs from the defacto complainant and the said suit is pending before the learned Principal District Court, Madurai. More over, the petitioners on 10.02.2020 had caused notice through Lawyer stating that the entire due is Rs.31 Lakhs, which is admittedly paid to be defacto complainant has been paid by cheque and the same has also been encashed by the defacto complainant.

5.Entire transaction being civil in nature and if at all difference in settling the account, it should be done through civil Court and lodging complaint against the person, who entered into a contract and his wife, is an abuse of process of law.

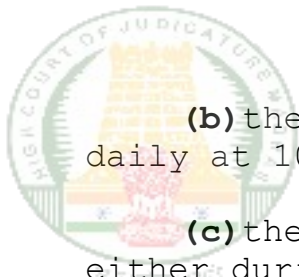
6.The learned Government Advocate(Crl.side) would submit that complaint given by the defacto complainant has been registered on 06.03.2020 and enquiry is pending.

7.The learned counsel for the defacto complainant would submit that due to non-payment of money, the defacto complainant is suffering every day.

8.On perusal, this Court finds that in a contract agreement entered on 01.03.2017, some difference of opinion has arose and more particularly, the payment of GST, which is the statutory liability has not been paid by the contractor and the contractor denies the liability to pay GST. From the records and submissions of the learned counsel, this Court finds that GST runs at Rs.1 Crore and 42 Lakhs. If the differnce of opinion in this regard settled, the entire dispute between the parties will be given quitus. On the face of it, it is only a civil dispute and therefore arrest of the petitioners herein is unnecessary.

9.In the view of the above, I am inclined to grant anticipatory bail to the petitioners with certain conditions. 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 of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Madurai on condition that the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners and the sureties shall affix their photograph 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., 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]***; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
12/03/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.I, MADURAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
CRIME BRANCH, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.C.VAKEESWARAN Advocate SR.No.5195
+1CC TO Mr.Karthikeya Venkatachalapathy, Advocate, SR NO.5185

ORDER
IN
CRL OP(MD) No.4457 of 2020
Date :12/03/2020

MS/PN/SAR-1/19.03.2020/3P.7C