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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/10/2020

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10804 of 2020

1. Franklin Rousvelt
2. Vijini Franklin
3. Ronald Viji

... Petitioners/Accused Nos.1to3

Vs

The State rep. by
The Inspector of Police,
District Crime Branch,
Kanyakumari Police Station,
Kanyakumari District.
Crime No. 15 of 2020.

... Respondent/Complainant

For Petitioners: M/s.T.Arul,
Advocate.

For Respondent : Mrs.M.Anandha Devi,
Government Advocate (Criminal Side)

For Intervener : Mr.G.Aravindhnan,
Advocate.

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

PRAYER :-

For Anticipatory Bail in Crime No.15 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners who are arrayed as A-1 to A-3 apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 148, 465, 468, 471, 403, 384 & 506(i) of IPC, in Crime No.15 of 2020 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that the defacto complainant has approached the first accused for his urgent need of money to the tune of Rs.1,50,00,000/-. Since the first accused was not having that needed money he agreed to give cloves stocks worth about Rs.1,26,00,000/-(Rupees one Crore Twenty Six Lakh Only) to the defacto complainant. Accordingly, the defacto complainant has received 15 tons of cloves from the accused persons to the tune of Rs.1,26,00,000/-. Thereafter, the defacto complainant repaid a sum of Rs.70 lakhs to the petitioners and Rs.56 lakhs was remaining balance amount. After the said transaction the accused persons said to have demanded a sum of Rs.3 crores, calculating at the rate of interest of Rs.8,60,000/-p.m., for the amount borrowed by the defacto complainant and also demanded eight cheques as security by threat and coercion. The defacto complainant, in order to close the loan transaction of Rs.1,26,00,000/-the defacto complainant also permitted the petitioners to collect and harvest the cloves and its lease from the estates, namely; Castle Rock, Black Rock which belongs to the defacto complainant family. It is further alleged that the accused persons only with an intention to grab the entire property they have conspired with other accused persons have fabricated a lease deed, dated 29.08.2019 which was alleged to have been executed by the defacto complainant and his parents and his brother. Infact, during the execution of alleged lease deed, the brother of the defacto complainant was in aboard. Another agreement was fraudulently created for cutting and removing the trees in the above said estates. While being so, on 10.03.2020, the defacto complainant was in the estate and the accused persons came there. Thereafter, the defacto complainant went to Tirunelveli from his estate along with original records of the estate and when he returned from Tirunelveli be train along with the original records to Nagercoil and found missing of the original documents of the estate. Thereafter, on 13.03.2020, he lodged a complaint before the Inspector of Police, Nagercoil Police Station.

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

4. The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as A-1 to A-3 and they never fabricated any of the documents as alleged by the defacto complainant. It is seen from the lease deed, dated 04.03.2019, the stamp papers were purchased in the name of the defacto complainant. The another deed permitting the petitioners to harvest the cloves from their estate was also executed in favour of the first petitioner by the defacto complainant and his family members on 27.08.2019 and all the stamp papers were purchased in the name of the defacto complainant. Infact, for recovery of money, the first petitioner has filed a suit in O.S. No. 115 of 2020 and its pending against the defacto complainant for trial in Principal District



also sought for permanent injunction restraining the defacto complainant and other from interfering with the enjoyment of the estate. Hence, he seek anticipatory bail.

5. Per Contra, the learned counsel appearing for the intervener submitted that the defacto complainant has borrowed a sum of Rs.1,26,00,000/-for which fifteen tons of cloves stocks worth about Rs.1,26,00,000/- by the petitioners. Thereafter, the defacto complainant has returned a sum of Rs.70 lakhs and the due is only remaining 56 lakhs. But the petitioners have demanded a sum of Rs.3 crores calculating the interest at the rate of 8,60,000/-p.m., for the amount borrowed by the defacto complainant. The accused persons have also fabricated by forged signature of the defacto complainant and his family members, the sale deed in favour of the first petitioner as if the release deed was executed by the defacto complainant and his family members and the petitioners have fabricated forged signature of the defacto complainant and his family members and executed that their favour. Now, the defacto complainant is in possession and enjoyment of the estate belongs to him. In order to grab the entire property the petitioners have also filed a suit for recovery of money in O.S. No.115 of 2020 on the file of the Principal District Court, Nagercoil along with prayer of injunction and no interim order has been granted in favour of the petitioners and the suit is also pending.

6. The learned Government Advocate (Criminal Side), on instructions, submitted that the first and second petitioners are husband and wife and the third petitioner is the relative of the first and second petitioners and the defacto complainant and his family members are having estates in the name of Castle Rock, Black Rock and Heaven more Estates. The defacto complainant has received 15 tons stocks of cloves from the petitioners for worth about Rs.1,26,00,000/-for no interest and he repaid a sum of Rs.70 lakhs and there is a due amount was Rs.56 lakhs. He further submitted that in order to grab the property the accused persons have conspired and fabricated a lease deed dated 29.08.2019 which was alleged to have been executed by the defacto complainant, his parents and his brother. He further submitted that the defacto complainant returned from Tirunelveli to Nagercoil by train along with original records of estates, the original document No.1655/2012 and photo copy of the other documents pertains to Heaven and more Estate, Black Rock and Castle Rock Estates were found missing. He further submitted that the defacto complainant and his family members are now in possession and enjoyment of the estate belonging to them.

7. It is seen from the records that, the defacto complainant has borrowed a sum of Rs.1,26,00,000/-by way of 15 tons stocks cloves from the petitioners. According to the defacto complianant, he repaid a sum of Rs.70 lakhs and the remaining due amount of Rs.56 lakhs is still pending. While being so, the petitioners have fabricated and



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forged the signature of the defacto complainant and his family members executed release deed in their favour and in respect of enjoyment of the estate called Castle Rock, Black Rock. It is further alleged that by another deed, dated 27.08.2019 the petitioners fabricated and as if it was executed by the defacto complainant and his family members thereby, permitting to them to cut and remove the trees in the estates. Now, the first petitioner has filed a suit in O.S. No.115 of 2020 on the file of the Principal District Court, Nagercoil as against the defacto complainant for recovery of money. Though, the first petitioner sought for injunction and no interim order was granted and the same is pending. The entire dispute is civil in nature and as such custodial interrogation of the petitioners are not required. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Nagercoil, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand 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 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 not disturb the possession and enjoyment of the estates, namely; Castle Rock, Black Rock belongs to the defacto complainant;

(c) the petitioners shall appear before the respondent police as and when required for interrogation;

(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



(g) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
07/10/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.I,
NAGERCOIL.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.T.ARUL, Advocate (SR-6839[I] dated 07/10/2020)

ORDER
IN
CRL OP(MD) No.10804 of 2020
Date :07/10/2020

KSA
SRS/ AKM/SAR-IV/ 14.10.2020/ 5P/6C