

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.467 of 2021

1. T. Rajasekar
2. S. Saravanan

.... Petitioners

Vs.

The state represented by
The Inspector of Police,
District Crime Branch,
Coimbatore District.
Coimbatore.
(Crime No.01 of 2021).

....Respondent

Prayer : Criminal Original Petition filed under Section 438 of Cr.P.C to enlarge the petitioners on bail in the event of his arrest pending investigation in crime No.01 of 2021 on the file of the respondent police.

For Petitioners: Mr.M. Guruprasad

For Respondent : Mr.S. Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehends arrest for the alleged offences under Sections 465, 468 and 471 of I.P.C, in Crime No.01 of 2021, on the file of the respondent/Police, seek anticipatory bail.

2. Totally there are 3 accused in this case and the petitioners herein are A1 and A2. The case of the prosecution is that the defacto complainant is the owner of the property situated at Kannampalayam and he entered into a joint venture agreement with the petitioners' concern namely M/s Fairly Land Foundation Pvt Limited, who is doing construction business. Pursuant to which 21 plots were allotted to petitioners' concern and 12 plots to the defacto complainant as per the agreement. Now the allegation is that the petitioners' concern have completed construction in the plots allotted to them and have constructed only 3 houses for the defacto complainant. Hence the complaint.

3.The learned counsel for the petitioners would submit that there is a dispute between the parties and earlier the matter was referred to arbitration, and the petitioners' company was constrained to invoke the jurisdiction of the Principal District Judge at Coimbatore u/s 9 of the Arbitration and Conciliation Act and the same is also pending, wherein the defacto complainant has also filed Crl.O.P.No.1443 of 2020 and this Court has also stayed further investigation by an order dated 01.11.2021. He would further submit that the petitioner has given a criminal color to a civil dispute and has filed the present complaint. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioners have entered into a joint venture agreement and they have not followed the terms of the agreement and cheated the defacto complainant. He would further submit Arbitration proceedings were initiated and the same is also pending. Therefore, he opposed to grant of bail to the petitioner.

5.Considering the facts and circumstances of the case and the occurrence is of the year 2013 and admittedly there is some serious dispute pending between the parties matter is referred to Arbitration, and the same is also pending, that apart, this Court has also stayed further investigation by and order dated 01.11.2021 in Crl.O.P.No.1443 of 2020, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 on which the order copy made ready, before the learned Judicial Magistrate, Sulur 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix his 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 as and when required for interrogation.

[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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 absconds, a fresh FIR can be registered under Section 229 A IPC.

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

-sd/-

03/02/2021

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,
SULUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE DISTRICT.

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

CRL OP.467/2021

Date :03/02/2021