

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Nineteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.551 of 2021

1 ARUN KUMAR [PETITIONERS / ACCUSED]
2 DEEPA

Vs

THE STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
KOVILPALAYAM POLICE STATION,
COIMBATORE.
CRIME NO.17 OF 2021.

For Petitioner : M/S.I.ABRAR MD ABDULLAH Advocate

For Respondent : M/S.T.SHUNMUGARAJESWARAN, Govt. Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioners, who apprehend at the hands of the respondent police for the alleged offence under Section 420 of IPC in Crime No.17 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioners are husband and wife and 1st petitioner is the Civil Engineer doing construction business. The defacto complainant and her husband invested money in Finance Company and the said Finance Company, instead of returning the money, it had handed over cosmetic goods to the defacto complainant and the said good were kept in godown in the custody of the 1st petitioner. Subsequently, without the knowledge of the defacto complainant, the petitioners stolen the said goods. Hence, the present complaint.

3.The learned counsel appearing for the petitioners submitted that the defacto complainant's husband is the friend of of the 1st petitioner and the 1st petitioner constructed the house of the defacto complainant for Rs.38 lakhs, in which, the defacto complainant paid only a sum of Rs.10 lakhs and subsequently, the

defacto complainant handed over the cosmetics goods to the petitioners to sell the same and adjust it towards the balance payment. It is further stated that the petitioners were in no way connected with the allegations made in the complaint and they are innocent and a false case has been foisted against the petitioners. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned counsel for the Intervenor submitted that the cosmetic goods were handed over to the petitioner. However, without the knowledge of the defacto complainant, the petitioners taken the goods and sold to others. Hence, he vehemently opposed to grant anti bail to the petitioners.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners were said to have cheated the defacto complainant. He further submitted that there is no bad antecedents against these petitioners.

5. It is a purely civil nature and that the defacto complainant is liberty to seek remedy before the appropriate forum in the manner known to law.

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

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 days from the date of receipt of a copy of this order, before the learned Judicial Magistrate II, Coimbatore, on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- each (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 and on further condition that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the 1st petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation and insofar as the 2nd petitioner is concerned, being a lady, shall report before the respondent police as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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]**; and;

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

-sd/-
19/04/2021

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,
NO.II, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOVILPALAYAM POLICE STATION,
COIMBATORE.

+1 CC to M/S.I.ABRAR MD ABDULLAH Advocate on payment of
necessary charges SR.NO.5105

CRL OP.551/2021

Date :19/04/2021

TA-07/05/2021