

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.Nos.3449 and 1391 of 2021

01. K.Udaya Kumar ...Petitioner in Crl.O.P.No.3449/2021

02. Gunaseakaran ..Petitioners in Crl.O.P.No.1391/2021

Vs.

State rep. by
The Inspector of Police,
District Crime Branch
Erode District.
Crime No. 12 of 2020

... Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of arrest by the respondent police connected with Crime No.12 of 2020 on the file of the respondent police.

For Petitioner in
Crl.O.P No.3449 of 2021 : Mr.M. Guruprasand

For Petitioner in
Crl.O.P No.1391 of 2021 : Mr.S. Deepanuday

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

COMMON O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest for the alleged offences under Sections 120B and 420 of IPC, in Crime No.12 of 2020, on the file of the respondent Police, seek anticipatory bail.

2. Totally there are 5 accused in this case. The petitioners herein are A4 and A5 and they are working as supervisors in the construction company owned by A1 and A2. The allegation is that A1 and A2 entered into a construction agreement with the defacto complainant for constructing the house and also received a sum of Rs.33,00,000/- to construct the house. Thereafter, they have not completed the construction and thereby cheated the defacto complainant. Hence, the complainant.

4. The learned counsel for the petitioners would submit that A1 and A2 are the proprietors of the construction company and they have received the money from the defacto complainant and the petitioners herein are only supervisors of the construction company and they have nothing to do with the alleged offence. Hence, he prays for anticipatory bail to the petitioners.

5. The learned Additional Public Prosecutor would submit that A1 and A2 who are proprietors of a construction company cheated more than 49 people and swindled 8 crores rupees approximately. He would further submit that A4 and A5 who are the petitioners herein are working as supervisors in the said construction company.

6. Considering the facts and circumstances of the case and also the fact that the petitioners are only supervisors of the construction company and A1 and A2 are the main accused who have cheated the defacto complainant, this court is inclined to grant anticipatory bail to the petitioners with stringent conditions.

7. Accordingly, the petitioners are directed 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-2, Erode 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 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 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions this Criminal Original petition is ordered.

-sd/-
25/02/2021

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,
NO.II, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S. M.GURUPRASAD Advocate on payment of necessary charges SR.No.2472

CRL OP.Nos.3449 & 1391/2021

Date :25/02/2021

cs 03/03/2021