

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.17996 of 2020

1 NIKHIL KAUSHIK
2 PRERAK NAIK

[PETITIONERS]

Vs

[RESPONDENT]

STATE REP BY
INSPECTOR OF POLICE,
F-3 NUNGAMBAKKAM POLICE STATION,
VALLUVAR KOTTAM HIGH ROAD,
NUNGAMBAKKAM,
CHENNAI-600 034

For Petitioner : M/S PREETHI S.ARASU Advocate

For Respondent : MR. S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420 and 506(i) of IPC in Crime No.545 of 2019 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are the owners of one M/s.Gharwala Tiffin Private Limited, and they have forced the defacto complainant to enter into a franchise agreement. Further, the petitioners had received a sum of Rs.12,00,000/- from the defacto complainant. The defacto complainant running a hotel on the basis of the franchise issued in his favour, thereafter the petitioners have transferred the franchise rights to third parties without the knowledge of the defacto complainant and cheated him, and criminally intimidated the defacto complainant. Hence, the complaint was registered.

3. The learned Counsel for the petitioner submitted that even though the defacto complainant has taken the franchise rights, he has not complied with the terms and conditions of the contract, failed to make payment and violated the agreement. He would further submit that the petitioners after giving a proper notice before termination of agreement, and also appointed an Arbitrator, to resolve the dispute. He would further submit that the

petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and a false case has been foisted against them. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners had cheated the defacto complainant. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case, it is a civil dispute between the parties, alleging breach of contract, now a arbitrator was also appointed to resolve the dispute, and there is no previous case pending as against the petitioners, this court is inclined to grant anticipatory bail to the petitioners 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 XIV Metropolitan Magistrate, Egmore, Chennai, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (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, 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.

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

-sd/-
02/03/2021

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 METROPOLITAN MAGISTRATE NO.XIV,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
F-3 NUNGAMBAKKAM POLICE STATION,
VALLUVAR KOTTAM HIGH ROAD,
NUNGAMBAKKAM, CHENNAI-600 034

+1CC to M/S PREETHI S.ARASU Advocate on payment of necessary charges SR NO.2723

CRL OP.17996/2020

Date :02/03/2021

MK:17/03/2021

WEB COPY