



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.15153 of 2021

1 L.B.SENTHIL KUMAR
2 LAKSHMI SENTHIL KUMAR

[PETITIONERS / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CCB-1, OFFICE OF THE COMMISSIONER OF POLICE,
GREATER CHENNAI POLICE,
NO.132, EVK SAMPATH ROAD,
VEPERY CHENNAI - 600 007.
(CRIME NO.145 OF 2021)

[RESPONDENT]

For Petitioner : M/S.THANU MADHAN Advocate

For Respondent : MR.A.GOPINATH, Govt. Advocate (Crl. Side)

For Intervenor : M/S.D.FERDINAND Advocate

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 alleged offence under Sections 406 & 420 of I.P.C in Cr.No.145 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the 2nd respondent/defacto complainant entered a lease agreement with the petitioner/Accused 1 for running the hotel called "Kongu Nattu Thotathu Virunthu" for a period of 33 months for which the 2nd respondent invested a sum of Rs.35,00,000/- as an advance amount as per the agreement dated 01.09.2019. Thereafter, it came to the knowledge of the defacto complainant that the petitioner has not obtained required permissions for the said building and thereby asked for return of money paid as advance. The petitioner had returned a sum of Rs.25,00,000/- to the defacto complainant and the balance amount Rs.10,00,000/- was not refunded by the defacto complainant. The defacto complainant had spent a huge sum of money to the tune of Rs.1,10,00,000/- towards renovating the building for carrying out his business activities.



Since the balance amount was not returned by the petitioner, the defacto complainant lodged a complaint against the petitioner.

3. The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that defacto complainant and associates of Hotel Kongu Nattu thotathu virundhu along with rowdy elements barged into petitioner's house on 10.02.2021 around 11 am and abused him with filthy language and threatened the petitioner that they will kill him and his family. The Petitioner also gave a complaint against them on 10.02.2021 to the Inspector of Police, v7 Nolambur Police Station and obtained CSR.No.74 of 2021. The Petitioner had also filed Crl.O.P.No.8002 of 2021 before this Court for registering the FIR. Hence prays for grant of anticipatory bail. However, on instructions, he further submitted that the petitioner, without prejudice to his rights, is ready to deposit the amount a sum of Rs.10 Lakhs by way of demand draft in favour of defacto complainant .

4.The learned counsel appearing for the intervenor submitted that the defacto complainant has been cheated for a huge sum of money by the petitioners. When the defacto complainant demanded return of money from the petitioner, the petitioner threatened the defacto complainant with dire consequences. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

5. The learned Additional Public Prosecutor submitted that the investigation is pending in this case. Since the defacto complainant was cheated for huge sum of money by the accused persons, he strongly opposed to grant anticipatory bail to the petitioners.

6. Considering the facts and circumstances of the case that since Rs.25 Lakhs was returned by the petitioners and the balance amount of Rs.10 Lakhs is yet to be received by the defacto complainant and on further submission made by the counsel for the petitioner that the petitioner would deposit a sum of Rs.10 Lakhs on his own volition by way of demand draft in favour of defacto complainant, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners are granted anticipatory bail and they are ordered to be released on bail in the event of arrest or on their appearance, within a period of 4 weeks from the date of receipt of a copy of this order, before the CCB-I & CBCID Court, Egmore, Chennai 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 and on further condition that:



(a) if the petitioner failed to surrender before the concerned Magistrate within a period of 4 weeks from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner shall make Demand Draft in favour of the defacto complainant for a sum of Rs.10,00,000/- (Rupees Ten Lakhs) without prejudice to his defence before the trial Court and the concerned Magistrate, shall accept the sureties furnished by the petitioner on such deposit being made and proof filed by the petitioner;

(c) 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;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

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

(f) the petitioner shall not abscond either during investigation or trial;

(g) 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]*; and;

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

-sd/-

06/09/2021

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 CCB-I & CBCID COURT,
EGMORE, CHENNAI.



2 THE INSPECTOR OF POLICE,
CCB-1, OFFICE OF THE COMMISSIONER OF POLICE,
GREATER CHENNAI POLICE,
NO.132, EVK SAMPATH ROAD,
VEPERY, CHENNAI - 600 007.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+3CC to M/S.THANU MADHAN Advocate on payment of necessary
charges SR.NO. 9700

CRL OP.15153/2021

Date :06/09/2021

CSK 22/09/2021