IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.18082 of 2020

and

Crl.M.P.No.7553 of 2020

1. Arunkumar
2. Velusamy K.K ... Petitioners

-Vs-

The Special Sub-Inspector of Police,
District Crime Branch,
Namakkal.
(Crime No.19 of 2020) ... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest by the respondent Police in Crime No.19 of 2020, on the file of the Respondent Police.

For Petitioners : Mr.T.Mohan
For M/s. M.Murali

For Intervenor : Mr.K.T.S. Sivakumar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The case has been heard through video conference

Totally, there are four accused and the petitioners are arrayed as A2 and A3. The petitioners, who apprehend arrest at the hands of the respondent Police for the alleged offence punishable under Sections 406 and 420 of IPC, in Crime No.19 of 2020, seek anticipatory bail.

2. The allegation is that A1 is running a spinning mill and they have purchased yarn from the defacto complainant. The petitioners are brother and father-in-law of A1, who are arrayed as A2 and A3. The allegation is that A1 firm purchased yarn from the defacto complainant to the tune of more than Rs.85 lakhs and failed to repay the amount. When they demanded money, all the accused A1 to A3 have threatened and criminally intimidated him. A4 is the agent and only through him, the order has been placed. Hence the criminal case has been registered and now apprehending arrest, the present petition has been filed seeking for anticipatory bail.

3. The learned Counsel for the petitioners would submit that admittedly, A1 alone has purchased the yarn for his company and A2 and A3 are brothers and father-in-law and they have not played any role in this case. A4 is said to be an agent, who has placed the order. He would submit that there is a simple business transaction, in which, there is a money dispute and a criminal colour has been given to it. That apart, after giving the complaint, the defacto complainant has issued a legal notice under Sec.138 of Negotiable Instruments Act against A1 stating that for the purchase of yarns, so many cheques have been given to him and those cheques were returned for want of funds and, he has proposed to initiate proceedings under Sec.138 of Negotiable Instruments Act. According to him, the only allegation against the petitioners and they have criminally intimidated the defacto complainant.

4. The learned counsel appearing for intervenor would submit that A1 has purchased the yarn and A2 and A3, who are close relatives of A1 and they are also responsible for the affairs of the company and they are liable to pay the amount. Only at the instigation of A4, order has been placed. All the accused have cheated huge amount to the petitioners.

5. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that the investigation is pending and it is a money dispute between the parties. He would submit that the petitioners have received yarn from the defacto complainant and failed to repay the amount and cheated him. Hence, the present complaint has been filed.

6. I have heard and considered the rival submissions made by learned counsel appearing for petitioners as well as learned Additional Public Prosecutor appearing for the respondent and perused the records.

7. On perusal of records, it could be see that A1 is the sole proprietor of the company, and he is only said to have purchased yarn. Now, it is also stated that he has also issued various number of cheques to the defacto complainant and the cheques were not honoured. Hence, he is taking steps to initiate proceedings under Sec.138 of Negotiable Instruments Act. So far as these petitioners are concerned, they are brother and father-in-law of A1. A4 is the agent and absolutely, there is no allegation except stating that when the defacto complainant demanded money and they have criminally intimidated him. Considering those circumstances, there is no allegation made against these petitioners, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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 Judicial Magistrate, Palladam, on condition that each of the petitioner 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 their 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.

9. With the above directions, this Criminal Original Petition is ordered. Consequently, the connected Criminal Miscellaneous Petition is closed.

-sd/-
22/03/2021

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 JUDICIAL MAGISTRATE,
PALLADAM.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SPECIAL SUB-INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
NAMAKKAL.

+1CC to M/S.M.MURALI Advocate on payment of necessary charges SR NO.3915

CRL.OP.NO.18082 OF 2020
& CRL.MP.NO.7553 OF 2020

Date :22/03/2021

MK:01/04/2021