IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19408 of 2020

1.Selvi
2.Kailasanathan ... Petitioners/A5 & A6

Vs.

The State rep by
Inspector of Police
City Crime Branch,
Coimbatore
(Crime No.20 of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest by the respondent police concerned in Crime No.20 of 2020 on the file of the respondent police.

For Petitioners: Mr.M.Guruprasad

For Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

For Intervener : Mr.R.Palaniandavan

ORDER

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(B), 465, 468, 471, 406 & 420 IPC in Crime No.20 of 2020, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Jithin Thomas, the Senior Manager of South Indian Bank, K.T.R.S.Puram Branch, R.S.Puram, Coimbatore, is that A1 is a Partnership Firm namely M/s.Cristal Icon Marketing. The accused A2 to A5 are the Partners of A1/Firm and A6 is the husband of A5. The allegation is that the accused 2 to 6 had entered into a criminal conspiracy to cheat the defacto complainant / Bank with the aid of the 7th accused, who is a Government servant viz., Village Administrative Officer, who had issued a fabricated Possession Certificate, pursuant to which, the accused 2 to 6 had produced the parent documents of the property in R.S.No.82/1 North Part, R.S.No.82/2, R.S.No.82/4 and R.S.No.83 West Part, for obtaining loan by knowing fully well that the property is not in their possession either physically or legally and further, knowing very well that the 5th accused does not have any legal title over the portions of the aforesaid property, the 5th accused along with other accused in order to cheat the defacto complainant/the South Indian Bank had pretended as if, she was having title right over the entire extent of the property covered under the Settlement Deed and had borrowed an amount of Rs.6.70 Crores and cheated the Bank.

3.Mr.M.Guruprasad, the learned Counsel appearing for the petitioners would submit that the petitioners are husband and wife and they have been falsely implicated in this case. He would submit that it is a case of non repayment of loan which has been projected as a case of cheating. He would submit that the property to an extent of 23 Acres is the ancestral property of the 2nd petitioner and pursuant to a settlement deed executed by the 2nd petitioner in favour of the 1st petitioner, the property is now in the absolute possession of the 1st petitioner. The learned counsel would further submit that this is the second application for anticipatory bail and the earlier application for anticipatory bail was dismissed on 28.09.2020, since the petitioners were unable to place certain important facts before this Court. He would further submit that the petitioners have taken loan of Rs.6.70 Crores by depositing their title deeds and the entire extent of the property covered under the deeds deposited is 23 acres and the value of the entire extent is more than 23 Crores. He would submit that there is a financial dispute between the petitioners and one Sunil Kumar and that based on a false information given by the said Sunil Kumar, the bank has given a complaint. Even as per the claim of the said Sunil Kumar, there is a dispute only to the extent of 86 cents and there is no dispute in respect of the remaining lands which is more than 22 acres and 14 cents and that the claim of the Sunil Kumar who is an unsecured creditor is baseless. He would further reiterate that the 2nd petitioner had acquired the properties through his ancestors and thereafter, he has executed a settlement deed in favour of the 1st petitioner by a settlement deed No.1683/2017 and after applying for loan, the bank staffs have visited the property, conducted spot inspection with their officials, measured the land along with the surveyor and after through scrutiny of the documents given by the petitioners and after obtaining legal opinion from the advocates of the bank, the loan was approved. He would submit that the petitioners have not cheated the Bank and even taking into consideration, the disputed area, the remaining properties are sufficient enough to protect the interest of the Bank.

4.The respondent police have filed Status Report.

5.Learned Government Advocate (Crl.Side) appearing for the respondent would submit that the 1st petitioner is the Partner of a Firm viz., M/s.Cristal Icon Marketing which is engaged in the business of trading and the 2nd petitioner is the husband of the 1st petitioner. On behalf of the 1st accused/Firm, the other petitioners have approached the defacto complainant/Bank for obtaining loan and they have availed the loan to the tune of Rs.6.70 Crores by depositing title deeds. Later, one Sunil Kumar had given information to the Bank that the 7th accused, who is the Government Servant, Village Administrative Officer for extraneous consideration had helped the petitioners in tampering and fabricating the documents based on which, the bank had sanctioned loan to the petitioners. He would submit that the petitioners have not only cheated the Bank but they have also tampered with the revenue records. He would submit that despite, notice given to the petitioners, they have absconded and they have not appeared for enquiry. He would further submit that this is the second application for anticipatory bail and after the dismissal of the earlier application for anticipatory bail, there is no change of circumstances and he would vehemently oppose for grant of anticipatory bail to the petitioners.

6.Mr.R.Palaniandavan, the learned counsel appearing for the intervenor/ Bank would submit that the petitioners by furnishing fabricated documents and by tampering of revenue records have availed the loan of Rs.6.70 Crores from the defacto complainant's Bank. Thereafter, the Bank had received an information from one Sunil Kumar stating that the petitioners had already availed loan from him to the tune of Rs.1.42 Crores, by depositing the Original Title Deeds of the 2nd petitioner / A6 and by suppressing all the earlier transactions between the petitioners and the said Sunil Kumar, they had borrowed loan from the Bank by depositing fabricated documents. Hence, he vehemently oppose for grant of anticipatory bail to the petitioners.

7.It is a case where the petitioners have cheated the Bank to the tune of Rs.6.70 Crores, by submitting fabricated documents and by tampering revenue records with the assistance of the Village Administrative Officer / 7th accused. This Court, had dismissed the earlier anticipatory bail petition on 28.09.2020 and that there is no change of circumstances after the dismissal of the earlier application. This Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
25/03/2021

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-VII,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
CITY CRIME BRANCH,
COIMBATORE.

+1 CC to M/S.M.GURUPRASAD Advocate on payment of necessary charges SR NO. 4042

CRL OP.19408/2020

Date :25/03/2021

MN-09/04/2021