



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.18435 of 2020

and Crl.M.P.No.7597 of 2020

WEB COPY

1.Gomathi
2.Vasudevan

... Petitioners

Versus

State represented by
The Inspector of Police,
Pallapathy Police Station,
Salem District.
(Crime No.1306 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of apprehending arrest in the Crime No.1306 of 2020 on the file of the respondent.

For Petitioners : Mr.P.Athiveeraramapandian

For Intervenor : Mr.P.Saravana Sowmiyan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

O R D E R

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 409 IPC in Cr.No.1306 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is doing business of organic agricultural products in the name of 'Uyir Agricultural Private Limited' and the defacto complainant is the Managing Director of the said Company. While so, the petitioners approached the defacto complainant to develop the said business in Salem and seeks agency for the same and also made Rs.5 lakhs as deposit amount. The defacto complainant had arranged the shop for rent and as per the business agreement, the petitioners have to share their daily income to the company account and the commission amount would be given by the defacto complainant to the petitioner. However, the petitioner have violated the business agreement and defrauded the defacto complainant to the tune of Rs.12,85,000/- . Hence he lodged a complaint before the law enforcing agency.



3.The learned counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. However, the learned counsel on instructions submitted that the petitioners, on their volition, are ready and willing to pay compensation for a sum of Rs.50,000/- to the credit of Crime Number and prays to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) submits that the petitioners had jointly cheated the defacto complainant and misappropriated huge sum of money and they also vacated the shop by taking all the things. He further submitted that the matter was referred for trial and it was not settled amicably between the parties.

5. Considering the nature of case and based on the undertaking given by the petitioners to deposit an amount, this Court is inclined to grant anticipatory bail to the petitioners.

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 of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Salem, 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 petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)the petitioners shall make deposit of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Cr.No.1306/2020 on the file of the respondent without prejudice to their defence before the trial Court and on such deposit being made, the concerned Magistrate, after obtaining undertaking from the defacto complainant that if the petitioner succeeds in the case, the said amount would be refunded back to him, shall disburse the amount to the defacto complainant. The concerned Magistrate, shall accept the sureties furnished by the petitioners on such deposit being made and proof filed by the petitioners;

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



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

(f) the petitioners 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/-
22/06/2021

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,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
PALLAPATTY POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.P.ATHIVEERARAMAPANDIAN Advocate on payment of necessary charges

CRL.OP.NO.18435/2020
& CRL.MP.NO.7597/2020

Date :22/06/2021