



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the First day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19890 of 2021

1 PRAKASH [PETITIONERS / ACCUSED]
2 FLORA PRAKASH

Vs

THE STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, TEAM-5,
OFFICE OF THE COMMISSIONER OF POLICE,
VEPERY, CHENNAI-7
(CRIME NO.109 OF 2021)

For Petitioner : M/S. S.N.SUBRAMANI Advocate

For Respondent : MR.C.E.PRATAP, Govt. Advocate (Crl. Side)

For Intervenor : MR.SHANGAR MURALI 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 420, 465, 468 r/w.34 of I.P.C. in Cr.No.109 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the disputed property belongs to one Aiyisha Nachia and she entered into lease agreement with the first petitioner. The second petitioner is the wife of the first petitioner. Thereafter, the first petitioner induced the defacto complainant to invest huge money to run restaurant in the said property and received a sum of Rs.1 Crore. When the defacto complainant tried to do some alteration works in the said property, the original owner objected the same and only thereafter the defacto complainant came to know that the first petitioner is not the original owner of the property. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution. The learned counsel further submitted that there is a memorandum of understanding entered into inbetween the first



petitioner and the defacto complainant, in which, there is an arbitration clause available and hence, instead of referring the dispute for arbitration, the defacto complainant has lodged the present complaint, which is un-sustainable one.

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4.The learned counsel appearing for the petitioners would further submit that due to the misunderstanding, the original land owner has already filed R.C.O.P.No.130 of 2016 before the competent civil forum to evict the petitioners from the leased portion. He would further submit that the first petitioner agree to vacate the leased portion within a period of two weeks. To that effect, the learned counsel also filed the affidavit of the first petitioner dated 30.10.2021.

5.The learned counsel appearing for the intervenor/ defacto complainant submitted that it is true that there is a memorandum of understanding inbetween the defacto complainant and the first petitioner, however, only if there is any genuine dispute, the same can be referred for arbitration. In the present case, the first petitioner has cheated the defacto complainant as if he is the owner of the property.

6.The learned Government Advocate submitted that investigation is pending.

7.Considering the fact that there is a memorandum of understanding entered into inbetween the first petitioner and the defacto complainant; the original land owner has already filed R.C.O.P.No.130 of 2016 before the competent civil forum to evict the petitioners from the leased portion and since the first petitioner has filed an affidavit dated 30.10.2021 agree to vacate the leased portion within a period of two weeks, this Court is inclined to grant anticipatory bail to the petitioners.

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 of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Alandur, 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)the petitioners and 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;

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

(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]; and;

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

-sd/-

01/11/2021

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.I, ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, TEAM-5,
OFFICE OF THE COMMISSIONER OF POLICE,
VEPERY, CHENNAI-7

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. S.N.SUBRAMANI Advocate on payment of necessary charges SR.NO.12301

CRL OP.19890/2021

Date :01/11/2021

CSK 12/11/2021

<https://hcservices.ecourts.gov.in/hcservices/>