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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.22537 of 2021

B.Surendher

... Petitioner

Vs.

State Represented by
The Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai.
(Crime No.109 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 438 of Cr.P.C praying to enlarge the petitioner on bail in the event on his arrest in Crime No.109 of 2021, on the file of the respondent police.

For petitioner : Mr.Inthu Karunakaran

For Respondent: Mr.A.Gokulakrishnan
Additional Public Prosecutor
Mr.R.C.Paul Kanagaraj
for Intervenor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 465, 466, 468, 471 and 420 of IPC, in Crime No.109 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant viz., one Sivanraj who along with his wife, let out property consisting of land and building to the petitioner herein for lease to run his restaurant business. Thereafter, the 1st and 2nd accused colluded with each other and obtained new EB connection for the defacto complainant's property by forging the signature and using the Face book photo of the defacto complainant without his consent. The (*)2nd accused's mobile number has been given as the contact number in



the EB connection. Further, the petitioner also illegally took possession of the second floor terrace with a temporary shed of the defacto complainant's property and using the same in an illegal manner. Thereby, the 1st and 2nd accused forged the signature of the defacto complainant and obtained the new EB connection without his consent. Hence, the complaint.

3. The learned counsel appearing for the petitioner submits that the 1st petitioner is the proprietor of Soul Tree Company at Anna Nagar, Chennai. The defacto complainant has committed to do all the necessary infrastructure initially and therefore fixed the rental at **(*)Rs.1 lakh** and the petitioner has paid an advance of **(*)Rs.10,00,000/-** to the defacto complainant and the petitioner and defacto complainant's wife had entered into lease agreement dated 29.11.2017. EB connections were obtained by the defacto complainant and the EB deposits have been made by Soul Tree viz Bank transfer to the tune of Rs.1,45,336/-. A2 is a **(*)friend of 2nd petitioner (A2)** has been communicating with the defacto complainant and co-ordinating all the correspondences. On 16.10.2020, the defacto complainant came to the restaurant along with eight anti social persons when the 1st petitioner's sister Gayathri was in the restaurant with the intent to commit criminal offence. The defacto complainant gave a complaint on 21.12.2020 stating that the petitioner has obtained electricity connection for the premises by forging the signature of the defacto complainant. The petitioner has not forged the signature of the defacto complainant. However he would further state that they have no objection to disconnect the service connection in the first floor and second floor in EB connection bearing Nos.0911680111218 and **(*)091680111184** and also assured that **(*)they would not use the 2nd floor** for which no lease agreement admittedly. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned counsel for the intervenor submits that the petitioner along with other accused had downloaded his face book and forged his signature in the electricity application and in other documents and thereby, by way of forgery had obtained new electricity connections to the second floor and trespassed into the second floor premises and construction was made illegal and wants to grab the property and prays for dismissal of the petition.

5. The learned Additional Public prosecutor submits that the allegation is that both the accused downloaded the defacto complainant's photo from his face book and forged his signature in the electricity application and in other documents for obtaining new electricity connections, the investigation is still pending. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.



6. As per the affidavit submitted by the petitioner, this Court is inclined to direct the EB service authority to disconnect the service connection Nos.0911680111218 and **(*)091680111184**, and if any dues for the said connection till disconnection is to be recovered from the petitioners alone by the authorities concerned.

7. Taking into consideration the nature of allegation and also that they fairly agreed to disconnect to those two service connection without prejudice their right, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the XIII Metropolitan Magistrate, Egmore, on condition that the petitioner shall execute a 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 XIII Metropolitan Magistrate, Egmore, on further condition that:

(a) the petitioner 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 petitioner shall report before the respondent police every Saturday at 10.30 a.m for a period of four weeks and thereafter as and when required for interrogation.

© the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

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This order, on being produced, be punctually observed and carried into execution by all concerned
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Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

(*) Being mentioned as per order of this Court dated 23/12/2021 Made in Crl.O.P.NO. 22537/2021.

TO

1 THE XIII METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
V-5, THIRUMANGALAM POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.INTHU KARUNAKARAN Advocate on payment of necessary charges

CRL OP.22537/2021

Date :07/12/2021

RW 15/12/2021

RW 27/12/2021