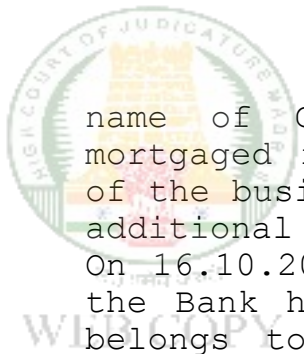




name of Govindaraja Mills. On 20.10.1995, the property was mortgaged for Open Cash Credit by T.R.Varadharajan for development of the business of Govindaraja Mills. Thereafter, an acceptance for additional loan for the same property in Canara Bank was accepted. On 16.10.2018, a letter from Canara Bank was received stating that the Bank has received an objection stating that the said property belongs to the first accused. Subsequently, T.R.V.Ramkumar has produced the first arbitration award that was decreed in this Court, vide order dated 07.10.1998, whereby, Sri Govindaraja Mills was allotted to T.R.Varadharajan, F/o. T.R.V.Ramkumar. All the related documents were produced before the Bank and also perused by the Bank and after that, they accepted the same. Thereafter, it has been found that A1 in conspiracy with A2, with a *mala fide* intention to grab the said property, falsely represented himself as lessor for Govindaraja Mills and entered into a lease agreement with Ramalinga Mills in a forged manner for the said properties.

3. Mr.Sricharan Rangarajan, learned counsel for the petitioners submits that this complaint has been lodged by one R.Ravikumar, Director of M/s.Govindaraja Mills Pvt. Ltd., at the instance of T.R.V.Ramkumar, who is the Managing Director of Govindaraja Mills Pvt. Ltd., which shows the conduct of T.R.V.Rmkumar that his intention is to harass the petitioners and not settle the disputes amicably. He further submits that the lease deed was executed on 13.12.2005 when the first petitioner was admittedly in possession of the property. Since Shri Ramalinga Mills Pvt. Ltd. was in need of a land to install the LPG Gas Bullet Tank for the mills related works, the first petitioner, representing Govindaraja Mills Ltd., executed a lease deed in favour of Shri Ramalinga Mills, represented by its Chairman, the first petitioner. The lease deed was executed between two separate legal entities for the purpose of business and as such, there is no offence of any forgery of documents or cheating made out as alleged in the FIR. The lease deed was executed based on the mutual understanding that this portion of the property will be vested with the petitioners, which eventually came to be formalized in 2014. He further submits that the complaint has been lodged by suppressing the fact that the parties had entered into a Memorandum of Agreement dated 01.10.2014, whereunder, the family of T.R.Vardharajan and T.R.Dhinakaran exchanged parcels of lands, including the vesting of the Athipatti lands in the TRD Group (1st petitioner). The Memorandum of Agreement was executed by the parties including T.R.V.Ramkumar. Therefore, the offences are not made out. He further submits that when the offences alleged in the FIR are mere surmises and are not made out even at a prima facie consideration, the nature and gravity of the accusation does not warrant any rejection of anticipatory bail and thus, the petitioners are entitled to grant of anticipatory bail.

4. The learned counsel for the petitioners, in support of his contentions, also relied upon the Judgments of the Hon'ble Apex Court in the case of **Indian Oil Corporation vs. NEPC India Ltd.**,



reported in **2006 (6) SCC 736** and **Govind Prasad Kejriwal vs. State of Bihar**, reported in **2020 16 SCC 714**, wherein, it was held that it is an abuse of process of law and the Court, when a civil dispute is given a colour of criminal proceedings.

5. The learned counsel for the petitioners further submits that the first is a senior citizen suffering with serious health problem and the second petitioner has nothing to do with the transaction and she is in the spiritual path in a spiritual organization. Hence, he prayed for grant of anticipatory bail to the petitioners.

6. Mr.N.R.Elango, learned Senior Counsel appearing for the defacto complainant submits that the land measuring an extent of 1.70 acres in Survey No.61/3 was purchased vide Document No.468/1981 in the name of Shri Govindaraja Mills Pvt. Ltd. The said Shri Govindaraja Mills Pvt. Ltd. Was allotted to T.R.Varadharajan in the Arbitration Award dated 23.02.1996 and A1 has no role in Shri Govindaraja Mills Pvt. Ltd. The learned Senior Counsel further submits that with malicious and *mala fide* intention to forge and create fraudulent documents to usurp the property of Shri Govindaraja Mills Pvt. Ltd., A1 in criminal conspiracy and collusion with A2 created a fraudulent lease deed, wherein A1 signed as both lessor and lessee. In the said lease deed, A1 has signed as lessor for Shri Govindaraja Mills Pvt. Ltd., even though he has no role in Shri Govindaraja Mills Pvt. Ltd. and as lessee for Ramalinga Mills, which is owned by A1 and administered by A2. The learned Senior Counsel further submits that A1 had created the forged lease deed document in order to get a license from Indian Oil Corporation to set up a gas plant in the property belonging to Shri Govindaraja Mills Pvt. Ltd. The act of creating a forged and fraudulent lease deed by the accused amounts to the offence of land grabbing. A1 and A2 have also cheated Indian Oil Corporation in addition to Shri Govindaraja Mills Pvt. Ltd. Hence, he prayed for dismissal of this petition.

7. The learned Additional Public Prosecutor submits that totally, four cases have been registered against the petitioners. After registering the case in Cr.No.12 of 2021, the respondent Police issued summon dated 27.08.2021 under Section 41-A of Cr.P.C. asking the accused persons to appear before the respondent Police along with relevant documents for investigation purpose. Immediately after receipt of the summon, the first accused claims that he has medical ailment and got admitted in a private hospital on the very next day, i.e. on 28.08.2021. When the respondent Police contacted other accused, they informed that the first accused was admitted in a hospital and they are taking care of him and also refused to disclose the name and other particulars regarding the hospital. Till date, neither the petitioners obliged the summon issued under Section 41-A of Cr.P.C. by the respondent Police nor produced any documents to substantiate that they have right over the properties



even before this Court. Since the petitioners are not co-operating for the investigation, the custodial interrogation of the petitioners is required in this case. Hence, he prayed for dismissal of this petition.

8. Both the learned Senior Counsel as well as the learned Additional Public Prosecutor also relied upon the judgment of the Hon'ble Apex Court in the case of **Prasanta Kumar Sarkar vs. Ashis Chatterjee and another** reported in **2010 14 SCC 494**, wherein, the Hon'ble Apex Court has laid certain conditions which have to be considered by the Court while deciding the bail petition, which reads as under:

- "(i) Whether there was a *prima facie* or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of accusations;
- (iii) severity of punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if granted bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of repetition of the offence;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger of justice being thwarted by grant of bail."

9. This Court paid its anxious consideration to the rival submissions made.

10. The first petitioner's father, one Ramasamy Naicker, was a very big business man having several properties and several business establishments in that area. The partition was made among the family members in the year 1996 and the same was confirmed in an Arbitration Proceedings. The allegation in this petition is that the petitioners have created some documents with regard to the property belonging to Shri Govindaraja Mills in a fraudulent manner.

11. The learned counsel for the petitioners claims that the petitioners' family is having several properties in and around area and therefore, there is no necessity for the petitioners to fabricate the documents and get the property belonging to Shri Govindaraja Mills. He further claims that more than 7000 persons are employed under the first petitioner in various firms and the first petitioner is also providing free education to needy children by establishing a school. Further, with regard to the properties, civil litigation is pending before the Civil Court. According to him, a civil dispute is given a colour of criminal proceedings.



12. It is seen that the first petitioner is aged about 82 years. The medical record is also placed before this Court that the first petitioner is suffering with old age ailments. The nature of complaint is based on records and it appears that civil suit is also pending between the parties.

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13. Considering the facts and circumstances of the case, the age of first petitioner, the tradition of petitioners' family and the number of employees depending on the petitioners' firm and also the fact that civil dispute is pending between the parties, this Court is inclined to grant anticipatory bail to the petitioners.

14. Accordingly, the Criminal Original Petition is ordered. The petitioners are directed 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, Virudhunagar, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar 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 the evidence or witness either during investigation or trial;

[d] the petitioners shall not abscond either during investigation or trial;

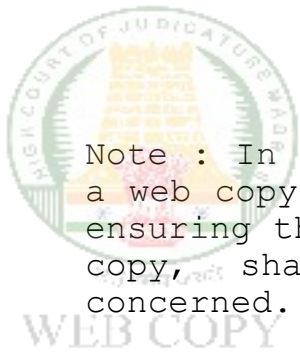
[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners are released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/11/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. The Judicial Magistrate No.II,
Virudhunagar.
2. Do-through The Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.
3. The Sub Inspector of Police,
District Crime Branch,
Virudhunagar.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to P.Santhoshkumar, Advocate Sr.No.8158 dated 17/11/2021

ORDER

IN

CRL OP(MD) Nos.15782 of 2021

Date : 15.11.2021

SB/JC/SAR-II/23.11.2021/6P/6C