



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.01.2022

CORAM:

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

Cr1.O.P.No.1127 of 2022

1.Santhosh Dhivakar
2.Durai Raj

.. Petitioners

Vs.

The State Rep.by
The Inspector of Police,
G-1, Town West Police Station,
Udhagamandalam, The Nilgiris.
Crime No.216 of 2021.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on anticipatory bail in the event of his arrest or his appearance before any Court in connection with the case in Crime No.216 of 2021 which is pending on the file of the respondent Police .

For Petitioners: Mr.Romeo Roy Alfred
for K.Vijayan

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC, in Crime No.216 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 20.10.2021, the defacto complainant, who is a businessman, owns lorry and has engaged his lorry driver (A1) to procure goods worth Rs.5,70,450/- from Venkateswara dealer at Gobichettipalayam and handed over the amount in cash to said driver. As instructed by the defacto complainant, A1 took the cash with him and started to the Gobichettipalayam from Gudalur, on reaching Ellan Halli, he informed him that the money was missing and that he was before the respondent police station for lodging a complaint.



3. The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. However, on instructions, the learned counsel further submits that the petitioners, on their own volition, is ready and willing to contribute a sum of Rs.20,000/- (each) to any Charitable Purpose as may be directed by this Court and he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the amount has not been recovered, no previous case pending against the petitioners and the investigation has not yet been completed. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and also considering the submissions made by the both counsel and also the fact that the petitioners have willfully and on his own volition agreed to contribute a sum of Rs.20,000/-(each) for charitable purpose, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioner are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Udhagamandalam, 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 are directed to deposit a sum of Rs.20,000/- (each) (Rupees Twenty thousands only) to the Registered Advocate Clerks Association, Udhagamandalam, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier and shall produce the said receipt before the Court below;

[b] 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;

[c] the petitioners 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 an interrogation;



[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

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

[f] 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 has 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]; and;

[g] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

-sd/-

25/01/2022

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,
UDHAGAMANDALAM, THE NILGIRIS.

2 THE CHIEF JUDICIAL MAGISTRATE
THE NILGIRIS. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
G-1, TOWN WEST POLICE STATION,
UDHAGAMANDALAM , THE NILGIRIS.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE REGISTERED ADVOCATE CLERKS
ASSOCIATION, UDHAGAMANDALAM.

CC to K.VIJAYAN Advocate on payment of necessary charges

CRL OP.1127/2022

Date :25/01/2022

RW 07/02/2022