



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2022

CORAM:

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

CrI.O.P.No.1288 of 2022

WEB COPY

1.Nandhini
2.Samson Franklin

... Petitioners

Vs.

State by,
The Inspector of Police,
District Crime Branch,
Thiruvallur, Thiruvallur District.
(Crime No.12 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 438 of Cr.P.C prayed to enlarge the petitioners on bail, in the event of their arrest by the respondent police in the case pending investigation in Crime No.12 of 2021, on the file of the respondent police.

For Petitioners : Mr.R.Sasikumar

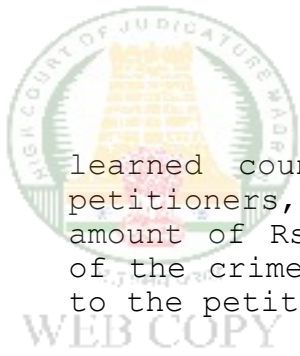
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 406,417 & 420 of I.P.C, in Crime No.12 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant entered into a construction agreement with the petitioners to construct a house in his vacant land and further a sum of Rs.22,99,000/- was transferred to the petitioners account. It is alleged that the petitioners have constructed the building to the value of Rs.7.4 lakhs only and failed to complete the balance construction work. Hence, the defacto complainant lodged a complaint against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. The



learned counsel, on instructions, would further submit that the petitioners, without prejudice to his rights, is ready to deposit the amount of Rs.6,00,000/- (Rupees Six Lakhs Only) each to the credit of the crime number. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor vehemently opposed for grant of anticipatory bail to the petitioners stating that that the petitioners had cheated the defacto complainants to the tune of Rs.15,00,000/- . He also submitted that earlier anticipatory bail petition filed by the petitioners in Crl.Op.No.22224 of 2021 was dismissed as withdrawn and further the investigation almost completed.

5.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on 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 J.M.I, Thiruvallur on condition that the petitioners 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 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 shall deposit a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) each to the credit of Crime No.12 of 2021 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 J.M.I, Thiruvallur On such deposit being made, the learned Magistrate, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioners succeeding the case, the amount of Rs.6,00,000/- deposited by the petitioners to the credit of Crime No.12 of 2021 will be returned to the petitioners and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter failing which, the anticipatory bail petition shall stands dismissed.

(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 daily at 10.30.a.m., until further orders.



(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 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;

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

-sd/-

21/01/2022

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,
NO.I, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THIRUVALLUR DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S V.R.APPASWAMEE Advocate on payment of necessary charges Sr.1034

CRL OP.1288/2022

Date :21/01/2022

RVR 28/01/2022