



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.1457 of 2022

1. P.P.K.Palanisamy @ P.Palanisamy ... Petitioners
2. S.Murugasekar @ S.Murugananthan
3. R.Gunasekaran

Vs.

State by Sub Inspector of Police ... Respondent
District Crime Branch Erode,
Crime No.11 of 2021

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of arrest in relation to Crime No.11 of 2021 on the file of the respondent police.

For Petitioners : Mr.V.Raghavachari

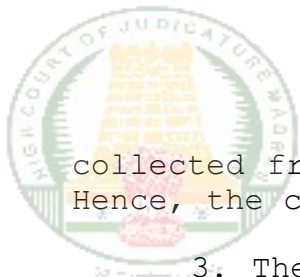
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For Intervenor : Mr.C.S.Saravanan
Mr.M.Guruprasad

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120B, 408, and 420 of IPC in Crime No.11 of 2021 pending on the file of the respondent police seek anticipatory bail.

2.The case of the prosecution is that the complaint has been lodged against the office bearers of Erode Nethaji Daily Market Vegetable Seller Society stated that from 13.12.2014 to 31.07.2017, the society had collected funds from its members for providing free house sites and the funds so collected were misappropriated. Further, it is alleged, that the funds were used towards purchase of immovable properties admeasuring an extent of 20.4 acres in the personal name of the office bearers of the society and the name of their family members vide 4 sale deeds and when the defacto complainant who is a member had demanded for return of Rs.2,10,000/- being the amount



collected from him as well as certain other members, it was refused. Hence, the complaint.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that a perusal of the complaint will indicate that it is politically motivated with the sole intention of causing damage to the name and reputation of their husbands namely Accused 1 to 4. Further, the properties which were purchased from out and out of their income. There is no evidence to indicate, even prima facie, that the funds of the society has been applied towards purchase of the property. A bald allegation has been made and has been blindly accepted by the authorities without even apprehending the contents of the complaint. He further submitted that the office bearers of the society against whom the allegation has been made is that a sum of Rs.10,000/- was proposed to be collected from the members towards construction of a separate building for the society. Unfortunately, only 407 members out of the 800 members of the society had made a contribution and therefore the project could not be executed. The society undertook the exercise of refunding the amount collected. It had settled the amounts to 358 members out of the 407 members who had made such a contribution. The learned counsel, on instructions, would further submit that the petitioners, without prejudice to their rights, are ready to deposit the amount of Rs.50,00,000/-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 appearing for the respondent submitted that the petitioners along with other accused persons had received the money from the defacto complainant and others and cheated them. He further submitted that the second petitioner had already been arrested on 19.01.2022. He further submitted that the investigation is almost completed. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. The learned counsel for the intervenors/defacto complainant submitted that the petitioners along with other accused persons had collected huge amount from the defacto complainant and others. Hence, he strongly opposed for grant of anticipatory bail to the petitioners.

6. Considering the facts and circumstances of the case and also the fact that the second petitioner had already been arrested. Therefore, this Criminal Original Petition is dismissed as against the second petitioner and the investigation is almost completed and the petitioners 1 and 3 are ready and willing to deposit each for a sum of Rs.50,00,000/- to the credit of crime number, without prejudice to their rights, this Court is inclined to grant anticipatory bail to the petitioners 1 and 3 with certain conditions.



7. Accordingly, each of the petitioner (i.e., 1 and 3) is directed to deposit a sum of Rs.50,00,000/- totally Rs.1 Crore (Rupees One Crore only) to the account of the society, within a period of three weeks from the date on which the order copy made ready, and on such deposit the petitioners 1 and 3 are ordered to be released on bail in the event of arrest or on their appearance, before the **learned Judicial Magistrate No.II, Erode**, on condition that each of 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 1 and 3 each shall deposit a sum of Rs.50,00,000/- totally Rs.1 Crore (Rupees One Crore only) to the account of Society, within a period of three weeks from the date on which, the order copy was made ready.

[b] 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 Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners 1 and 3 are directed to appear before the respondent police on every Wednesday and Saturday 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]**.



[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

WEB COPY

-sd/-

24/01/2022

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.II, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH
ERODE.

+1 CC to M/S.V.RAGHAVACHARI Advocate on payment of necessary charges SR.NO.1131

+1 CC to M/S.M.GURUPRASAD Advocate on payment of necessary charges SR.NO.1200

CRL OP.1457/2022

Date :24/01/2022

TA-02/02/2022