



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.6691 of 2022

1 S.R.THILAGAVATHI
2 P.VINOTH
3 R.NAGAVALLI

[PETITIONERS / ACCUSED]

Vs

THE INSPECTOR OF POLICE
NEDUGADU POLICE STATION,
NEDUNGADU,
KARAIKKAL.
CRIME NO.21 OF 2022.

[RESPONDENT]

For Petitioner : M/S.T.SAIKRISHNAN Advocate

For Respondent : MR.V.BALAMURUGANE,
Public Prosecutor for Puducherry.

For Intervener : M/S. S.SURESH, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 420, 468 and 471 of IPC read with Section 34 of IPC, in Crime No.21 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that based on the complaint received from one Gopinath, Assistant Vice President (Sales), M/s.Equitas Small Finance Bank Ltd., Pondicherry, a case was registered in Crime No.0021, dated 16.03.2022 for the alleged offences under Sections 34, 420, 468 and 471 of IPC.



3. The sum and substance of the complaint is that the petitioners herein have availed loan from the defacto complainant for their business purpose namely Petroleum Retail Outlet of HPCL at Karaikal. For the said purpose, they produced NOC in the name of HPCL expressing "No Objection" for granting loan. On the strength of NOC, loan of Rs.2,49,50,000/- was advanced on 25.08.2020. Thereafter, since there was default in payment, SARFAESI proceedings was initiated and some of the securities furnished by the borrower had been taken possession and at that time while verifying the documents produced by the petitioners herein, it was found that NOC issued in the name of HPCL dated 07.07.2020 was a forged document. Therefore, producing fabricated NOC dated 07.07.2020 attributing the intention to cheat the Bank and for producing forged document with malafide intention, action sought to be taken against these petitioners.

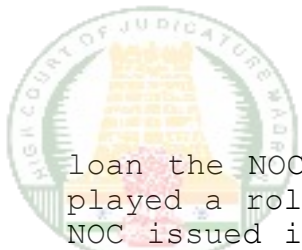
4. Though, the Anticipatory Bail Petition was filed by all the three accused persons, pending consideration, the second petitioner Vinoth who is arrayed as A2 in the complaint, was taken into custody and the learned counsel for the petitioners states that as far as the second petitioner is concerned, the petition for anticipatory bail has become infructuous.

5. Regarding the other two petitioners, it is submitted that they both are ladies and they are not aware of the alleged NOC and it was not given by them and the document was created by the defacto complainant themselves while sanctioning the loan. Further more, it is held that the properties owned by the petitioners are already been given as security for the loan amount. While so, whether the NOC is genuine or not, has no relevance for granting the loan and non payment of loan was only due to Covid situation. The petitioners were not able to pay the loan after March 2021.

6. The learned Public Prosecutor, Pondicherry representing the State would submit that the source of fabricated document namely NOC in the name of HPCL has to be investigated and for the said investigation, custodial interrogation of these petitioners are required.

7. As an intervenor, the defacto complainant has appeared through counsel and therefore, filed documents relating to the financial transaction and the communication between the HPCL and the defacto complainant wherein, it has been categorically stated by HPCL that NOC dated 07.07.2020 is not a genuine document and it did not emanate from the regional office.

8. Considering the above said facts and also the documents produced, this Court finds that primarily, it is a case of loan advanced to the petitioners by the defacto complainant and subsequent default by the petitioners. No doubt, in the course of sanctioning



loan the NOC which has now been claimed to be a forged document has played a role. But, the loan was sanctioned not based solely on the NOC issued in the name of HPCL, but on the strength of the immovable property furnished as security in the said transaction. When there is a default in payment and that is due to the pandemic situation, coercive steps for prosecuting the borrower cannot be a proper course of action. However from the conduct of the defacto complainant, this Court finds that apart from filing criminal complaint against these petitioners who seems to have forged the NOC, they have written to HPCL that they should not supply fuel to the petitioners for their business. This conduct of the defacto complainant to corner the borrower and put them into stress is highly condemnable. In any event, in this case already a male member of the family has been secured and these two petitioners are mother-in-law and wife of the second accused who is detained. In this case, interrogation is required on the short point regarding the origin of NOC and the author of NOC. For the said purpose, it is sufficient to direct the petitioners herein to co-operate with the investigation and by appearing before the Investigation Officer daily until further orders.

9. This Criminal Original Petition is allowed in so far as the first and third petitioner are concerned and this petition has become infructuous as far as the second petitioner is concerned.

10. Accordingly, the first and third petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Karaikal on condition that the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only), with two sureties, each for a like sum to the satisfaction of the learned Magistrate, failing which the anticipatory bail shall stand canceled and on further condition that:

(a) 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;

(b) the petitioners shall report before the Investigating Officer daily at 10.30 a.m., until further orders.

(c) the petitioners shall not tamper with 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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

25/03/2022

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, KARAIKAL, PUDHUCHERRY DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDHUCHERRY DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
NEDUGADU POLICE STATION,
NEDUNGADU, KARAIKKAL.

4 THE PUBLIC PROSECUTOR
PUDHUCHERRY DISTRICT.

+1 CC to M/S.T.SAIKRISHNAN Advocate on payment of necessary charges SR.NO. 4555

+1 CC to M/S.S.SURESH Advocate on payment of necessary charges SR.NO. 4619

CRL OP.6691/2022

Date :25/03/2022

RW 28/03/2022