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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :08.04.2022

Pronounced on :12.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.7492 of 2022

& CRL.MP.NO.4816 of 2022

1.Polamada Sharneeshwar Guptha
@ Sharneeshwar Guptha

2.Talupula Anand Mohan @ Anand Mohan
3.Sibbena Phani Krishna Kiran @
Kiran

.. Petitioners

/versus/

The State represented by
Inspector of Police,
EDF-II, Team III CCB,
Vepery, Chennai 600 007.

.. Respondent

Balu Baskar

... Petitioner/Intervener

ORDERED AS PER ORDER OF THIS COURT DATED 08/04/2022 MADE IN
CRL.MP.NO.4816/2022 IN CRL.O.P.NO.7492/2022

Criminal Original Petition has been filed under Section 438 of
Cr.P.C., praying to enlarge the petitioners on anticipatory bail in
the event of arrest by the respondent police, pending investigation
in Crime No.4 of 2022 on the file of the Inspector of Police, EDF-II,
Team-III CCB, Vepery, Chennai.

For Petitioners : Mr.R.Sunil Kumar

For Intervenor : Mr.A.Balamurugan

For Respondent : Mr.S.Santhosh,
Govt. Advocate (crl.side)



O R D E R

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 409, 420 & 34 of IPC in Crime No.4 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The FIR indicates that, the first and second petitioners are the Proprietor and Business Manager of M/s Vanajakshi Traders respectively. The third petitioner is a Commission Agent, who introduced the defacto complainant to the first and second petitioners herein as suppliers of essential commodities and in trade for several years. They are capable of supplying essential commodities at low price. Believing the words of the petitioners 1 and 2, orders for supply of 1200 MT of Bengal grams/Chenna dhall was placed and Rs.1crore was paid as advance by the defacto complainant, but supplied only 120 tonnes. Similarly, Rs.80 lakhs was paid for supply of 1260 MT of sugar, but did not supply sugar, within the time agreed. For this business, the third petitioner has received Rs.15 lakhs as commission.

3.According to the defacto complainant, he had an agreement for supply of essential commodities to the customers, like Thirumala Tirupathi Devasthanam, Karnataka Government Civil Suppliers and Kerala Government Departments etc. If he any breach or delay in supply has to pay penalty and compensation. Due to premeditated fraud committed by the accused persons, the defacto complainant was force to pay penalty to his buyers and had suffered Rs.8,16,48,988/-. The short supply of goods and delay in supplying of goods was the cumulative cause for the above loss to the defacto complainant and the said breach was premeditated one on the part of the accused persons with an intention to cheat the defacto complainant by making false representations as if they are capable of supplying essential commodities with time bound at low price. The experience claimed by the petitioners found to be false and from the inception, they are not supplying the agreed quantity of the goods.

4.The petitioners claim that the allegations made in the complaint are false. In fact, the petitioners supplied the goods, as per the agreement but, in view of the second wave of Covid-19 lock down was imposed and their manufacturing activities came to be a standstill. The chain of supply got disrupted. As a result, there was short supply and it was not intentional. Further, due to unprecedented raise in the price, the complainant was asked to revise the price, which was not accepted by the defacto complainant. Even now, the petitioners are ready to supply the goods for the value of money received as advance. The defacto complainant instead wants to collect penal charges and exorbitant money from the petitioners and enrich itself. Therefore, had boosted the money payable in the complaint and harassing the petitioners.



5.The Chart provided in the petition in the anticipatory bail detailing out the supply made and the money outstanding to be paid for shortage is as below:-

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No .	Material	Ordered Quantity /Mt Tons	Price Agreed / Kg	Procured price/kg	Supplied /Billed Price	Supplied Quantity Mt.To ns	Balance Quantity Mt.To ns	Complain ant's Balance Amount with 1 st petitioner	Advance with 1 st petitioner's vendors
1	Tur Dal	750	84	92-93	88	392	358	1,40,57,980	3,32,94,000
2	Chana-Dal	1200	52	59	57	119.75	1080.25	Nil	No additional payment made by complainant
3	Sugar	1020 & 1500	32&34	36	32&34	970&350	1200	3,78,99,442	4,32,00,000
4.	Oil	122364 Ltr	140	142.80	140	122364 Ltr	Nil	Nil	7,65,685
Total Balance Amount								5,19,57,422	7,72,59,685

6.This Court, on considering the averments made in the bail petition, finds that the commercial agreement has turned into criminal complaint, in view of the short supply and delay in supply. The reason stated by the petitioners for the said short supply is break down of Covid-19 and lockdown. The transactions are during the month of March 2021 and thereafter. This period coincide with the second lock down imposed by the Government, in view of pandemic. In the light of the above fact, this Court is inclined to grant anticipatory bail to the petitioners.

7.Accordingly, the 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 Special Court for CCB and CBCID, Metropolitan Magistrate Court, Egmore, Chennai-8, on condition that each of the petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh 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 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 Investigation Officer daily at 10.00 a.m., until further orders, and they shall co-operate with the investigation.

(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 absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
12/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

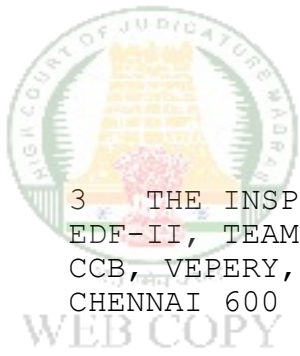
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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR CCB
AND CBCID, METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI-8.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]



3 THE INSPECTOR OF POLICE,
EDF-II, TEAM III,
CCB, VEPERY,
CHENNAI 600 007.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to Mr.R.SUNIL KUMAR Advocate on payment of necessary
charges SR.NO. 5597

+1 CC to MR.A.BALAMURUGAN Advocate on payment of necessary
charges SR.NO. 5600

CRL OP.7492/2022

&

CRL.MP.NO.4816 of 2022

Date :12/04/2022

RW 13/04/2022