



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.14409 of 2022

1 ELANGO VAN

[PETITIONERS / ACCUSED]

2 BHARTH RAGESH

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
ALANGIYAM POLICE STATION,
TIRUPPUR DISTRICT
CRIME NO. 101 OF 2022.

[RESPONDENT]

For Petitioners : MR.K.T.S.MURTHY, Senior Counsel for
M/S.K.V.MUTHU VISAKAN, Advocate

For Respondent : M/S.V.J.PRIYADARSANA, Govt. Advocate (Crl. Side)

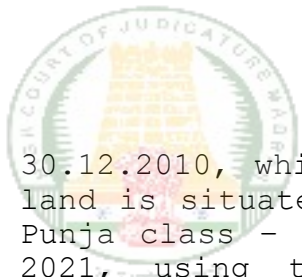
For Intervenor : M/S.MR.M.GURUPRASAD, Advocate

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 offences punishable under Sections 379 IPC r/w 21(1) Mines & Minerals (Development and Regulation) Act 1957 in Crime No.101 of 2022, seek anticipatory bail.

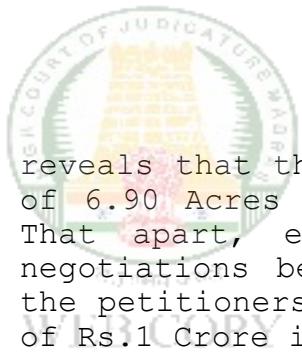
2. The case of the prosecution is that, a letter from the office of the Superintendent of Police, Tiruppur District in N.Ref P1/E-2447900/493/2022 to take action in the complaint given by the complainant K.Keerthana Roopa/ de-facto complainant was received. In that complaint, the de-facto complainant stated that she owns the agricultural land measuring 6.90 acres in S.F.No.302/3 in Sellampalayam Village, Dharapuram Taluk vide the settlement deed dated 20.01.2021, executed by her mother Mrs.K.Prema, which was registered as Doc No.432/21 in SRO Dharapuram, wherein, her mother obtained the said land through the family partition deed dated



30.12.2010, which was registered as the Doc.No.14654/2010. The said land is situated near Amaravathy river canal and it is classified as Punja class - I irrigation well type. While being so, during April 2021, using the COVID period, the complainant's maternal uncle S.M.Elangovan/1st petitioner herein and his son Bharathrakesh/2nd petitioner herein took gravel soil for the depth of 10 feet and varied levels in the said agricultural land measuring 6 acres and spoiled the said land, that it could not be used for agricultural purpose or other purpose. Mr.Senthil from Sikanapuram Village also helped them in this illegal activity. By taking the gravel soil worth of Rs.1.20 Crores, they caused loss of Rs.1 Crore to the market value of the said land. When the talks were held through family elders in this regard, the petitioners herein gave false promise that they would compensate for the loss and made the de-facto complainant to believe and made her not to file the complaint in the police station for one year. In between, de-facto complainant was doing certain works after finding the boundaries with the help of Government Surveyor and putting up wire fence. At that time also, the petitioners herein caused interruption and threatened them and also took the videos of the repair work and spread false information among the de-facto complainant's relatives as if she and her husband were taking gravel soil from the land, thereby causing mental agony and defamation to de-facto complainant's reputation. Hence, the complaint.

3. The learned Senior Counsel appearing for the petitioners submitted that though the de-facto complainant alleged that the petitioners had removed earth worth about Rs.1.28 Crores but there is absolutely no proof to show that the petitioners had removed the earth. He further submitted that the entire complaint is falsely foisted against the petitioners and the petitioners had never negotiated with the de-facto complainant to settle the issue. In fact, he also produced the photographs to show that the de-facto complainant only removed the earth from the subject land and as such, custodial interrogation of the petitioners does not required in this case. That apart, the 1st petitioner is aged about 62 years and the 2nd petitioner is an agricultural graduate and he is the son of the 1st petitioner. He further submitted that, to assure the bonafide without prejudice to their right of defence, they are willing to deposit some reasonable amount as imposed by this Court.

4. The learned counsel appearing for the intervenor/ de-facto complainant submitted that the petitioners have removed earth worth about Rs.1.20 Crores from the de-facto complainant's land. The 1st petitioner is none other than her uncle and the petitioners removed the earth from the land which was allotted in favour of the de-facto complainant. He further submitted that, at the time of levelling the line which was damaged by the petitioners, the petitioners falsely alleged that the de-facto complainant is also doing earth removing in the subject land. He also produced so many photographs and it



reveals that the entire property comprised in S.No.302/3 to an extent of 6.90 Acres land, the earth was removed to the depth of 10 feet. That apart, even according to the de-facto complainant, after negotiations between the petitioners and the de-facto complainant, the petitioners were ready and willing to settle the issue on payment of Rs.1 Crore is considered.

5. The learned Government Advocate (Crl.side) appearing for the respondent also produced the report submitted by the Deputy Director of Geological and Mines Department dated 23.06.2022 and it reveals that the earth has been removed from the land comprised in Survey No.302/3 admeasuring 22003 Sq.Mtrs with depth of 2 Meters. Entire sand weighing 44006 Cubic Metres were removed by the accused persons worth about Rs.84,93,158/-. Though the petitioners and the de-facto complainant are relatives, the petitioners damaged the entire property belonging to the de-facto complainant and also got to the tune of nearly about Rs.85 Lakhs.

6. However, the learned Senior counsel appearing for the petitioners submitted that the petitioners are ready and willing to deposit reasonable sum as directed by this Court. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the each of the petitioners shall pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) directly to the de-facto complainant in Crime No.101 of 2022 by way of Demand Draft, within a period of four weeks from the date on which the order copy made ready, and on such payment the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Dharapuram on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related 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 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.

[b] the each of the petitioners shall pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) directly to the de-facto complainant in Crime No.101 of 2022 by way of Demand Draft, within a period of four weeks from the date on which the order copy made ready and the proof shall be produced before the learned Magistrate concerned at time of execution of sureties.



[c] the petitioners shall appear before the respondent police daily at 10.30 a.m., until further orders.

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioners shall not abscond either during investigation or trial.

[g] 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].

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

-sd/-

28/06/2022

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,
DHARAPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
ALANGIYAM POLICE STATION,
TIRUPPUR DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.M.GURUPRASAD, Advocate on payment of necessary charges SR.NO.10270

CRL OP.14409/2022

Date :28/06/2022

JPA 04/07/2022