



Crl.O.P.No.15327 of 2022

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G.K.I LANTHIRAIYAN, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 467, 468, 471 and 120(B) of IPC in Crime No.12 of 2022, seek anticipatory bail.

2. The case of the prosecution is that on the strength of fake general power of attorney, the first accused had executed sale deeds in favour of the petitioners herein, in respect of the property owned by the defacto complainant's company called M/s.Alpha Realcon Private Limited with forged documents and impersonation. It is further alleged that the accused have created fake accounts in the name of the company in Kerala & Karnataka and sent the amount through those accounts. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the company called M/s.Alpha Realcon Private limited formerly known as



Crl.O.P.No.15327 of 2022

M/s. Alpha Tradex Private Limited owned property situated at Coimbatore and Kanyakumari. The company executed authorization letter by the board resolution and authorised the first accused to execute sale deed in respect of the company's property. The authorised person executed the sale deed in favour of the petitioners. In fact, the defacto complainant filed an appeal before the District Registrar to annul the sale deed executed in their favour. The District Registrar, Kanyakumari, by the proceedings dated 12.05.2022 rejected the appeal filed by the defacto complainant. That apart the petitioners have filed a suit for declaration and permanent injunction in O.S.No.593 of 2022 before the learned District Judge, Coimbatore and it is pending. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl. Side) submitted that in the year 2009 itself, they changed the company name as M/s.Alpha Realcon Private limited from M/s. Alpha Tradex Private Limited. Without having any right, the accused persons fabricated the authorization letter and through the said authorization letter the first



CrI.O.P.No.15327 of 2022

accused executed sale deed in favour of the petitioners. Already one of the Director approached the National Company Law Tribunal in which specific direction was issued not to alienate or dispose of any of the property owned by the company. Violating the said order the sale deed has been executed in favour of the petitioners. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. The learned counsel appearing for the defacto complainant submitted that no person was authorised by the company to deal with the company's property. In fact one of the Directors filed petition before the National Company Law Tribunal, New Delhi, Bench-III, and there is a specific direction not to deal with the property either by sale or purchase. The petitioners colluded with other accused persons and created the fabricated sale deed in their favour. In fact, the property though situated in Coimbatore District, they registered the property at Kanyakumari. Therefore, the custodial interrogation of the petitioners is very much required and prayed for dismissal of the anticipatory bail petition.



CrI.O.P.No.15327 of 2022

6. There are totally six accused in which the petitioners are arrayed as A2 to A4. The first accused is the authorised person to execute the sale deed. It is seen from the above facts and circumstances that there are disputes between the directors in respect of their shares over the company. One group of directors approached National Company Law Tribunal and one group of directors executed authorization letter in favour of the first accused. On the strength of the said authorization letter, the first accused executed sale deed in favour of the petitioner, in respect of the company's property situated at Coimbatore and Kanyakumari.

7. It is also seen that by an order dated 12.05.2022, the District Registrar, Kanyakumar in his proceedings No.506/A3/2022, dismissed the appeal filed by the defacto complainant to annul the document which was executed in favour of the petitioners herein. The petitioners also filed suit in O.S.No.593 of 2022 on the file of the learned District Judge, Coimbatore, and it is pending. Therefore, there is a civil dispute between the directors and all the allegations are civil in nature. Considering the



CrI.O.P.No.15327 of 2022

above fact and circumstances of the case, this Court feels that the custodial interrogation of the petitioner does not requires in this case and hence this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate V, ALGSC, Coimbatore, on condition that the petitioners shall execute a separate 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 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



CrI.O.P.No.15327 of 2022

identity.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[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]**.

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

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Crl.O.P.No.15327 of 2022

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