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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17.04.2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.6852 of 2023

1.K.Bothalraj

2.B.Rajagopal

... Petitioners1 & 2/Accused No.1 and 2

Vs

State Rep.by

The Sub Inspector of Police,

Bodinayakanur Rural Police Station,

Theni District.

Crime No.75 of 2023

... Respondent/Complainant

For Petitioner : Mr.M.G.Anandkumar, Advocate.

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 75/2023 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under section 379 of I.P.C., in Crime No.75 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant, who is working as Acquisition Officer in GTL Infrastructure Limited Company, No.232, City Center, 3rd Floor, Purasaivakkam Main Road, Kilpaauk, Chennai lodged a complaint stating that on 16.06.2010, the said company had purchased the cell phone towers in the name of Chennai Network Infrastructure Limited (CNIL) from "Aircel Limited Company" via orders passed by the Principal Seat at Madras High Court and then on 13.12.2017, the said Chennai Network



Infrastructure Limited (CNIL) after merger with parent /, changed its name into "GTL Infrastructure Ltd Company". The further allegation is that on 25.01.2008, the Chennai Network Infrastructure Limited (CNIL) executed a registered agreement with the first petitioner, in which, the lessee/(CNIL) agreed to construct a chain link fencing and placed a door and installed 60meters cell phone tower (Site id.TAM/GBT/K/28472) and provided service and also paid a rent for a sum of Rs.5,500/- to the first petitioner/Lessor. The further allegation is that one Mr.Senthilkumar, who is working as a Technician in GTL Infrastructure Limited Company and maintained the cell phone tower. On 30.06.2021, the maintenance of the tower was done. On 01.07.2021, at about 10.00 a.m. while he visited the above mentioned property, he found that the cell phone tower, batteries, generator, A/c and electrical equipments were missing. As per the instruction of the company employees, he lodged a complaint to the respondent police, but there was no action taken. Thereafter, the de-facto complainant filed a petition in Crl.M.P.No.1408 of 2023 before the learned Judicial Magistrate Court, Bodinayakanur and the learned Magistrate has issued a direction, based on which, the present FIR has been registered against the petitioners.

3.Heard both sides and perused the materials available on record including the First Information Report.

4.Taking into consideration of the facts and circumstances of the case and also the facts that the present complaint has also been registered based on the direction issued under Section 156(3) of Cr.P.C. and that the custodial interrogation of the petitioners do not require in this case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

5.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, Bodinayakkanur, Theni District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand 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, 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 first petitioner shall report before the respondent Police as and when required for interrogation; and the second petitioner shall report before the respondent police, daily at 10.30



a.m., for a period of three weeks and thereafter as 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.

sd/-
17/04/2023

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/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE,
BODINAYAKKANUR, THENI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
BODINAYAKKANUR RURAL POLICE STATION ,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.G.ANAND KUMAR, Advocate (SR-6150[I] dated 19/04/2023

ORDER
IN
CRL OP(MD) No.6852 of 2023
Date :17/04/2023