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CRL OP(MD).N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.03.2023

PRESENT

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

CRL OP(MD).No.21392 of 2022

1.K.Kannan
2.Geetha
3.K.Dinesh

... Petitioners/Accused Nos.1 to 3

Vs.

1.State represented by
The Inspector of Police,
District Crime Branch,
Dindigul.
(In Crime No.20 of 2021)

...1st Respondent/Complainant

2.Seenivasan

...2nd Respondent/Defacto Complainant

For Petitioners : Mr.G.Anto Prince,Advocate.

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

For R2 : Mr.V.Karthirvelu
Senior Counsel
for Ms.M.Rajeshwari, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.20 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 to A3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 120(B), 406, 420, 506(i) of IPC, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, in brief, is as follows:

<https://www.mhc.tr2gov.in/judis> On 30.06.2021, the defacto complainant has given a

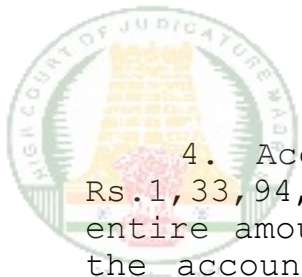


complaint to Superintendent of Police, Dindigul District, is forwarded through proper channel to the first respondent police. In the complaint it is alleged that the defacto complainant is living with his family in Dindigul and doing auditing work. He also runs a cardboard company. His brother Kannan (1st Petitioner) is living with his family in the State of Andhra Pradesh. In the year 2010, defacto complainant was looking for 100 and more acres of land by Usilampatti - Theni road in order to start an agricultural college. When he consulted with Kannan (1st petitioner), he has said that he knew a land broker in Usilampatti. After few days, Kannan has contacted him over phone and informed him that land is available close to Usilampatti - Theni road.

2.2. Thereafter, both of them visited the land. The defacto complainant was interest in purchasing a particular land. After some months, Kannan contacted him over phone and told that the land he decided to purchase the land for an offer. If he pays Rs.1 crore as advance, they can purchase the land. By saying so, Kannan asked the defacto complainant to send the amount to the accounts of petitioners. Therefore, the defacto complainant asked his another brother-Chandrasekaran to send the money to the accounts of the petitioners. Accordingly, Chandrasekaran from his account sent a sum of Rs.1,33,94,928/- to the accounts of the petitioners starting from 08.01.2010 and ending with 11.07.2014 and subsequently, the said amount was given back by the defacto complainant to his brother Chandrasekaran in cash.

2.3. Whenever the defacto complainant asked his brother Kannan about purchase of land, Kannan postponed the purchase by saying one or other reasons. Since his brother Kannan did not make any attempt to purchase the land, on 05.01.2015, the defacto complainant purchased land to a extent of 110 acres in Usilampatti - Theni road. In these circumstances, on 20.12.2020, Kannan along with his wife and son came to his house from Vishakapattinam and asked him that they are in urgent need of Rs.10,00,000/- and asked him to give the said money as hand loan. When he was loath to give hand loan as they asked, they started to scold him in derogatory words and held out a threat that they would not return the money already obtained and do away with him, if he asks the money. Hence, the complaint.

3. The learned counsel for the de facto complainant would submit that he transferred the amount through his brother's Chandrasekaran account in favour of the petitioners herein. After payment of advance amount, the first accused did not take further steps to come forward to execute the sale deed. Even on 20.12.2020 the petitioners approached the defacto complainant again and demanded Rs.10,00,000/- as hand loan. When the same was denied, the petitioners used filthy languages and refused to pay the said amount and give life threat. Hence, the defacto complainant gave a



4. According to the defacto complainant, he paid a sum of Rs.1,33,94,828/-. On perusal of records, it is revealed that the entire amount has been transferred from 08.01.2010 to 11.07.2014 to the account of the petitioners herein from Chandrasekaran, who is one of the brothers of the first accused herein. Admittedly, the said Chandrasekaran and the first petitioner herein are partner of Hi-Tech Infrastructure. This amount was received only for the purpose of provident fund of the employees of the Hi-Tech Infrastructure. That apart, even according to the complainant, the amount was transferred from 08.01.2010 to 11.07.2014, whereas the present complaint is lodged in the year 2021. That apart, no amount has been transferred from the defacto complainant's account to the petitioners herein. Therefore, the entire issues are civil in nature and custodial interrogation of the petitioners does not require. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

5. Considering the fact and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Dindigul 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 to 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the respondent police 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



(f) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/03/2023

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/04/2023

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

VSD
TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
DINDIGUL DISTRICT.
- 2 THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, DINDIGUL.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.RAJESHWARI, Advocate (SR-4262[I] dated 15/03/2023)
+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-4330[I] dated 16/03/2023)

ORDER
IN
CRL OP(MD) No.21392 of 2022
Date :15/03/2023

PKP/VR/SAR-4/05.04.2023/ **4P/7C**