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Crl.O.P.No.18162 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18162 of 2025

1.B.Suresh Babu

2.Revathy

... Petitioners

Vs.

The State represented by,

The Inspector of Police,

Kuniyamuthur Police Station

Coimbatore City,

Coimbatore – 641 008. (Crime No.37 of 2023)

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioners on anticipatory bail in the event of their arrest in connection with Crime No.37 of 2023 on the file of respondent Police.

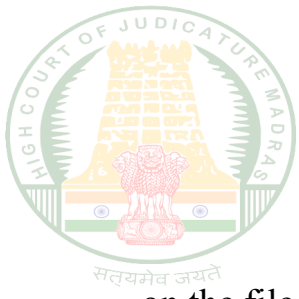
For Petitioner : Mr.Santhana Raman

For Respondent : Mr.Leonard Arul Joseph Selvam

Government Advocate (Criminal Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences under Sections 406 and 420 IPC, in Crime No.37 of 2023,



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on the file of the respondent, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner, a builder entered into a Joint Development Agreement with the land owner, defacto complainant. Owing to delay in construction, the rights were subsequently assigned to M/s.Terra Space Enterprise Private Limited, in which the accused are the Managing Director and Director. The earlier MOU along with a power of attorney (Doc.No.236/2010) was cancelled due to non completion. Thereafter, a fresh MOU and power of attorney (Doc.No.2564/2015) were executed on 28.05.2015 extending the period of construction. Despite this, there was further delay, and the builder also agreed to pay compensation for such delay. It is further alleged that A2 executed a sale deed in favour of A1 in respect of 56,371 sq.ft in Block A, thereby causing loss to the defacto complainant. The accused persons are also alleged to have constructed 80 flats instead of the sanctioned 56, failed to secure individual tax assessments and electricity connections for the complainant's share, with held the original title and revenue documents and did not issue any receipt for the corpus fund amount received from the defacto complainant. Hence, the complaint.

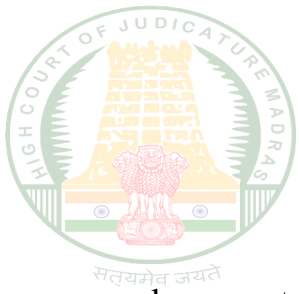
3. The contention of the learned counsel appearing for the petitioner is that the petitioner is innocent and has been falsely implicated in this case. He



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further submitted that the reading of the FIR makes it evident that the dispute arises out of mutual obligations under a development agreement pertaining to the property of the defacto complainant, which has been given a criminal colour. He further submitted that the petitioner had earlier filed a petition to quash the FIR in Crl.OP.No.3847 of 2023, in which this Court had granted an interim stay, which was later vacated. He further submitted that the petitioners are under apprehension of arrest by the respondent police. Hence, he prayed for the grant of anticipatory bail.

4. Learned Government Advocate (Criminal Side) appearing for the respondent police reiterated the prosecution case and opposed for granting anticipatory bail to the petitioner. He submitted that the property belongs to the defacto complainant. Based on the complaint, a case was registered at Kuniamuthur Police Station, Coimbatore City in Crime No.37 of 2023 under Sections 406, 420 IPC on 03.02.2023. During the course of investigation, statements were recorded from the defacto complainant and other witnesses and relevant documents relating to the case were collected. He further submitted that notices under Section 41 A Cr.P.C, notice was issued to the accused and enquiry conducted. He further submitted that the absconding accused A1 and A2 are yet to be secured and that further steps are required to collect the remaining



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documents for completion of investigation.

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5. Heard both sides and perused the materials available on record.

6. It is admitted that an Arbitration Petition is pending before the Arbitrator Mr.P.R.Ramakrishnan, Senior Advocate, wherein the disputes between the parties arising out of the following agreements are under adjudication a) Deed of Assignment dated 04.04.2010 (b) MOU dated 04.04.2010 (c) MOU dated 28.05.2015 and (d) Amended MOU dated 03.07.2019.

7. Considering the submission made by the learned counsel appearing on both sides and the nature of the allegations and the fact that the petitioner is already before the Arbitrator in respect of the subject matter of the present dispute, no special condition is imposed. Accordingly, this Court is inclined to grant anticipatory bail to the petitioner subject to certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **Judicial Magistrate No.VII, Coimbatore**, on condition that petitioner shall execute a 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,



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the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[c] the petitioner shall report before the respondent Police as and when required for interrogation;

[d] the petitioner shall not abscond either during investigation or trial and they shall make themselves available for interrogation by a Police Officer as and when required;

[e] the petitioner shall not directly or indirectly cause any threat to the de facto complainant and witnesses and shall not tamper with evidence or witness either during investigation or trial;

[f] the petitioner to give an undertaking that if required for being identified by witnesses during investigation or for police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;



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[g] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions have been imposed and the petitioner 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)13 SCC 283]**;

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

31.07.2025

drl

To

1. The Judicial Magistrate No.II,
Coimbatore.
2. The Inspector of Police,
Kuniyamuthur Police Station
Coimbatore City,
Coimbatore – 641 008.
3. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

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