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Crl.O.P.No.28993 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.28993 of 2024

1. Sandhya Satish Batavia
2. Satish Virchand Batavia ... Petitioners/Accused

Vs.

State, Rep. by Inspector of Police
CCB-1, Coimbatore City,
Coimbatore.
(Crime No.68 of 2024) ... Respondent/complainant

Wilson P.Thomas ... Intervenor/Defacto complainant

[Defacto complainant permitted to intervene, as per the orders of this Court
[SMJ] dated 07.03.2025 in Crl.MP No.3665 of 2025]

PRAYER: Criminal Original Petition filed under Section 482 of BNSS, to
enlarge the petitioner on bail in the event of arrest Crime No.68 of 2024, on
the file of the respondent Police.

For Petitioners : Mr.K.S.Karthik Raja / M.Senthil Kumar

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)

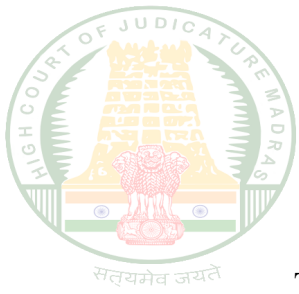
For Intervenor : Mr.M.Mohamed Riyaz



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ORDER

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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420 and 120(B) of IPC in Crime No.68 of 2024, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners are the owners of the land measuring 3.23 ½ acres of land situated in GS Nos.382/1 and 359/2 of Somayampalayam Village, Coimbatore; that they had entered into a Memorandum of Understanding with the defacto complainant for development of land besides entering into a sale agreement with the defacto complainant; that the defacto complainant had paid an advance of Rs 2 Crores on 26.05.2022; that the possession of the land was handed over to the defacto complainant on the same day; that the defacto complainant had spent nearly 1.25 crores for the development of the land; and that the petitioners are now making attempts to sell the property to third parties and thus caused loss to the defacto complainant to the tune of Rs.3.5 crores. Hence, this case.

3. (i) The learned counsel appearing for the petitioners would



submit that two sale agreements were entered into between the petitioners and the defacto complainant besides two memorandums of understanding; that in fact one sale agreement was cancelled for breach of agreement by the defacto complainant; that the agreement states that if the balance sale consideration is not paid within the stipulated period of nine months, the defacto complainant would forfeit the entire advance amount of Rs.2 Crores; and thus the petitioners are not liable to return the said sum of Rs.2 Crores.

(ii) The learned counsel further submitted that at best it is a case of breach of promise and the petitioners have filed a suit in OS.No.130 of 2024 on the file of the learned V Additional District Judge, Coimbatore, which is pending trial; that the defacto complainant has initiated Arbitration proceedings in OP No.19 of 2024 and in view of the aforesaid proceedings submitted that custodial interrogation is not required.

4. The learned counsel for the intervenor/defacto complainant however vehemently opposed the grant of anticipatory bail and submitted that the petitioners have cheated the defacto complainant to the tune of



Rs.3.5 crores; that the petitioners have no permanent residence in India and that if they are released on bail, they would not be available for the trial.

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5. The learned Government Advocate (Crl. Side), reiterated the aforesaid facts and submitted that the petitioners have no permanent residence in India; that Look Out Circular, issued against the petitioners, is pending; and that stringent conditions may be imposed to ensure their presence in the trial.

6. At this juncture, the learned counsel for the petitioners submitted that the petitioners without prejudice to their defense and contention, are ready and willing to deposit of Rs.25 Lakhs to the credit of Cr.No.68 of 2024 and shall file an affidavit of undertaking before the trial Court for their appearance.

7. The above said facts would reveal that there is a dispute between the petitioners and the defacto complainant with regard to enforcement of a sale agreement and a memorandum of understanding entered into between them. A civil suit admittedly is pending and the



agreement also provides for an arbitration clause.

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8. Considering the aforesaid facts and the fact that the dispute is of commercial in nature and the petitioners are willing to deposit Rs.25 Lakhs to the credit of Cr.No.68 of 2024, this Court is of the view that custodial interrogation is not required for the purpose of investigation. However, this Court is of the view that the petitioners have to appear before the trial Court in the event of the respondent filing a final report.

9. In view of the above, it is ordered as follows:

(i) the respondent is directed to withdraw the look out circular, which is pending against the petitioners;

(ii) the petitioners are directed to deposit a sum of **Rs.25,00,000/- [Rupees Twenty Five Lakhs Only]** to the credit of Cr.No.68 of 2024, within a period of two weeks from the date of receipt of a copy of this order, without prejudice to their rights and contentions before the trial Court;

(iii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically;



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(iv) thereafter, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days thereafter, before **the learned Judicial Magistrate No.VII, 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 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** appear before the respondent police for a period of two weeks and thereafter as and when required for the interrogation;

[c] The petitioners shall seek the permission of the trial Court before going abroad and on their return, they shall surrender their passports before the trial Court;

[d] The petitioners shall file an affidavit of undertaking before the trial Court that they would appear on



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all hearing dates;

[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 269 of B.N.S.

07.03.2025

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To

1. The State By, The Inspector Of Police



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CCB-1, Coimbatore City,
Coimbatore.

2. The Judicial Magistrate No.VII,
Coimbatore.

3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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