

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, MADURAI.

PRESENT: THIRU. M.THANDAVAN, B.L.,

(I Additional District & Sessions Judge, Madurai)

PRINCIPAL SESSIONS JUDGE (i/c.) MADURAI.

(AUTHORISED U/S.10(3) OF CR.P.C.)

Thursday, this the 20th day of August -2020.

CrI.M.P.No.3748/2020

1. Yoganathan (Raja), S/o.Muthaiya

2. Joe (Joienikol), S/o.Joseph

... Petitioners/Accused.

Vs

State through the Inspector of Police,

DCB P.S. Cr.No.21/2019

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.P.Jeyakumar, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Anticipatory Bail application u/s. 438 of Cr.p.c.

2. The offences alleged are U/s. 120(B), 406, 420 and 506(i) IPC.

3. Heard.

4. The case of the petitioners is that totally there are 3 accused in this case, the petitioners are A1 and A2. All the transactions happened in the year 2018. The petitioners are doing the Onion Broker business. The defacto complainant is doing Asafoetida business. There is no transaction between the defacto complainant and the petitioners. The petitioners introduced the persons for purchase of onion to the defacto complainant and received only commission. All the transactions between the defacto complainant and one Dineshkumar. But, the said Dineshkumar has not been arrayed as accused in this case. The defacto complainant sustained loss in his business. The petitioners are in no way connected with the loss sustained by the defacto complainant. The petitioners are ready to abide any condition imposed by this court and prays to grant anticipatory bail.

5. The learned public prosecution has submitted that the defacto complainant is running a business in the name and style of “ Sri Associates” for selling Onion and Asafoetida. The A1 and A2 approached the defacto complainant for sending the onion to Cylone. On 2.5.2018, there was a written agreement entered between the defacto complainant and the petitioners. In which, it is stated that 52-1/2% share to the A1, 42-1/2 % share to the defacto complainant and 5% share to the A3. Thereafter, the defacto deposited a sum of Rs.7,65,500/- on various dates to the accounts of the petitioners, for the afore said business. As per agreement, the petitioners have not imported the onion to Cylone Therefore, the defacto complainant demanded his money back. The petitioners have re-paid only Rs.1,50,000/- and they have cheated the balance amount.

6. In reply, the learned counsel for the petitioner would submit that the agreement has been suppressed in the complaint and F.I.R. It is pointed out by the learned public prosecutor that the agreement has been mentioned in the F.I.R.

7. On perusal of the records it is revealed that all the transactions happened in the year 2018. The case has been registered in the year 2019. The date of occurrence was on 2.5.2018. The investigation might have been over by this time. So far, the respondent police has not taken any steps to secure the petitioners. Therefore, considering the facts and circumstances of the case, it is held that the petition has got to be allowed.

8. In the result, in the event of arrest or on their surrender before the Court concerned, the petitioners are ordered to be enlarged on anticipatory bail on their executing own bond each for a sum of Rs.10,000/- to the satisfaction of the Judicial Magistrate concerned subject to the following conditions:-

(i) After a period of 6 weeks, the petitioners should surrender before the Judicial Magistrate concerned and execute a fresh bond each for Rs.10,000/- with two sureties for likesum each to the satisfaction of Judicial Magistrate concerned. Thereafter, the petitioners shall appear and sign before the Inspector of Police, Respondent Police station daily at 10.00 a.m., until further orders.

(ii) The petitioners shall not tamper with the witness or in any manner interfering with or make obstacle to the smooth progress of interrogation.

(iii) If there is any violation of condition, the Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate concerned for cancellation of bail order though bail granted by the Sessions Court, as per ruling of the Hon'ble Supreme Court reported in ***P.K. Shaji Vs State of Kerala(2005)*** Accordingly, the petition is allowed.

Pronounced by me in Camp Court on the 20th day of August -2020.

Sd/-M.Thandavan,

Principal Sessions Judge (i/c.),Madurai.

Copy to

1. The Judicial Magistrate concerned
2. The Inspector of Police, DCB P.S.
3. The Petitioners through his counsel.