

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Twenty Fourth day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH
CRIMINAL ORIGINAL PETITION No.2956 of 2017

T.RAJESHWARI

[PETITIONER / ACCUSED]

Vs

STATE REP. BY
DEPUTY SUPERINTDENT OF POLICE,
C.B.C.I.D., OCU -II,
EGMORE, CHENNAI.
CR.NO.01/2016

[RESPONDENT]

For Petitioner : M/S.SIVA VARTHANAN Advocate

For Respondent : MR.RAJA RATHINAM ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

This is the second anticipatory bail application. The first anticipatory bail application in CrI.O.P. No.23213 of 2016 was dismissed by this Court on 18.11.2016 by a detailed order. Ergo, it may not be necessary to narrate the entire facts of the present case. Suffice it to say that one Manoj Rajan, a mentally challenged person inherited huge properties from his deceased father and he was abducted by a group of persons, including some advocates, from Charity Home, Gudalur on 04.05.2016 and was brought to Chennai, where, he was made to execute a sale deed in Document No.2273 of 2016 dated 01.06.2016, conveying a prime industrial property belonging to him, to Rajeswari, the petitioner herein. The Gudalur police registered a case in Cr. No.341 of 2016 and this Court transferred the investigation of the case to the CB-CID.

2 In ordinary circumstances, this is not a fit case to grant anticipatory bail to Rajeswari. However, Rajeswari came forward voluntarily and filed an affidavit before this Court on 17.02.2017 undertaking to cancel the sale deed dated 01.06.2016. Accepting her undertaking, this Court passed the following order dated 17.02.2017, granting interim anticipatory bail to Rajeswari:

"Heard Mr. Siva Varthanan, learned counsel for T. Rajeswari, the petitioner herein and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondents/State.

2 T.Rajeswari is present before this Court and she is identified by her counsel Mr. Siva Varthanan. Today, she has filed an affidavit, wherein, she has stated as follows:

"2 I state that I had purchased the factory property of Manoj Rajan by Document vide No.2273 of 2016 on 01.06.2016 and it was registered in Poonamallee Sub Registrar's Office.

3 I further state that I am ready to cancel the sale deed in Document vide no.2273 of 2016 that was registered on 01.06.2016 in Poonamallee Sub-Registrar's Office.

4 I am filing this affidavit to show my *bona fide* before this Hon'ble Court and to establish that there is change in circumstances for considering my anticipatory bail application in Crl.O.P. No.2956 of 2017.

5 I am filing this affidavit without prejudice to the defense available to me in the case in Crime No.1 of 2016 on the file of OCU II, CB-CID.

6 I pray this Hon'ble Court to accept this affidavit and consider my anticipatory bail application."

3 In other words, T. Rajeswari has agreed to cancel the deed of sale dated 01.06.2016 registered as Document No.2273 of 2016 in the Sub-Registrar's Office, Poonamallee. Mr.K.Venkatasubramaniam, Sub-Registrar, Poonamallee, is also present before this Court.

4 The fact remains that Manoj Rajan, who had executed the said sale deed, has not been of sound mental disposition since his birth, as could be seen from the records in this case. Therefore, this Court had appointed Mr.M.K. Kabir, Senior Advocate, as the guardian for the person and properties of Manoj Rajan, by order dated 21.10.2016 in Crl.O.P. No.14967 of 2016.

5 In the light of the aforesaid undertaking given by T. Rajeswari today, this Court directs the Sub-Registrar, Poonamallee, to register the cancellation deed that would be presented by T. Rajeswari and Mr. M.K. Kabir representing Manoj Rajan and report before this Court on 24.02.2017 at 2.15 p.m.

6 In the light of the above, T. Rajeswari is granted interim anticipatory bail till 24.02.2017, on condition that, in the event of her arrest, she be released on bail on her executing a bond for Rs.10,000/- without sureties to the satisfaction of the Deputy Superintendent of Police, CB-CID, OCU-II, Chennai and with a further condition that she immediately deposits her passport with the Investigating Officer.

Post on 24.02.2017 at 2.15 p.m."

3 Today, Rajeswari is present before this Court. It is reported by the learned State Public Prosecutor that Rajeswari has executed a cancellation deed dated 18.02.2017 vide Document No.405 of 2017 on the file of the Sub-Registrar, Poonamallee.

4 It is further reported that Rajeswari has deposited her passport with the Deputy Superintendent of Police, CB-CID, OCU-II, Chennai. Rajeswari has also returned the original parent document of the property in question, viz., Document No.5790 of 1992 dated 22.10.1992 to Mr. M.K. Kabir, Senior Advocate, in the open Court.

5 Mr. Venkatasubramaniam, Sub-Registrar, Poonamallee, referred to his records and submitted that the original of the sale deed dated 22.10.1992 in Document No.5790 of 1992 that was executed by Tamil Nadu Small Industries Development Corporation to Lizman Engineering, represented by its Proprietor, E.J. Rajan (father of Manoj Rajan), was prepared on a 20 rupee non-judicial stamp paper bearing no.17518 dated 25.08.1992. He further submitted that apart from the said document, a duplicate in stamp paper bearing no.4376 dated 10.10.1992 and a triplicate in stamp paper bearing no.4375 dated 10.10.1992 were also registered on the same day. His submission is recoded.

6 Ananthan, the petitioner in Crl.O.P. No.14967 of 2016, who is present before this Court, submitted that he has the triplicate with him and he handed over the same to Mr. M.K. Kabir, Senior Advocate, in the open Court.

7 Mr. Siva Varthanan, learned counsel for Rajeswari, submitted that Rajeswari had only the original of the sale deed prepared in stamp paper bearing no.17518 of 1992 dated 25.08.1992, which, she has handed over to Mr.M.K. Kabir, Senior Advocate, in the open Court.

8 Be that as it may, the fact remains that the original of the document has been handed over to Mr. M.K. Kabir and this Court makes it clear that if anyone is to play mischief with the duplicate of the document no.5790 of 1992 dated 22.10.1992, a fresh criminal case can be registered.

9 In view of the above and taking into consideration the fact that Rajeswari is a lady, this Court is inclined to grant anticipatory bail to her.

10 Accordingly, Rajeswari is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the XI Metropolitan Magistrate, Saidapet, Chennai, on condition that she shall execute a bond for a sum of Rs.50,000/- (Rupees fifty 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 her or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] she shall report before the Deputy Superintendent of Police, CB-CID, OCU-II, Chennai daily at 10.30 a.m. for a period of four weeks and thereafter, as and when required for interrogation.

[b] she shall not tamper with evidence or witness either during investigation or trial.

[c] she shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law, as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself, as laid down by the Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

-sd/-
24/02/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE XI METROPOLITAN MAGISTRATE
SAIDAPET, CHENNAI 600 015.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR GENERAL OF
REGISTRATION, SANTHOME HIGH ROAD,
CHENNAI 600028

6 MR.SATHYAMOORTHY,
DEPUTY SUPERINTENDENT OF POLICE,
CB-CID, ORGANISED CRIME UNIT
(OCU)-II, CHENNAI.

7 THE DEPUTY SUPERINTDENT OF POLICE,
C.B.C.I.D., OCU -II,
EGMORE, CHENNAI

8 MR. M.K. KABIR
SR. ADVOCATE, NO. 80, LAW CHAMBERS, HIGH
COURT BUILDINGS, CHENNAI 600 104

9 MR. VENKATASUBRAMANIAM
SUB-REGISTRAR, POONAMALLEE.

+1CC to M/S.SIVA VARTHANAN Advocate on payment of necessary
charges SR NO.3754

CRL OP.2956/2017

Date :24/02/2017

MK:28/02/2017