

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Seventh day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.6641 of 2018

S.SABARISH,

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE
EDF-II, TEAM 9(A),
CENTRAL CRIME BRANCH,
CHENNAI-7,
CR.NO.40 OF 2018.

[RESPONDENT]

For Petitioner : M/S.B.VIJAY Advocate

For Respondent : MR. C.IYYAPPARAJ, Govt. Advocate (Crl. Side)

For Intervener : MR.R.SASIKUMAR Advocate

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested on 20.02.2018 for the offences punishable under Sections 406,420,506(i) r/w. 34 of IPC in Crime No.40 of 2018 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Vijaykumari is that the defacto complainant was induced to enter into partnership firm by name ' Amman Beverages' with Subramanian which was started during the year 2015. Thereafter, the petitioner was made to invest an amount of Rs.1,90,00,000/- by mortgaging the property as collateral security. However, during 2016, since the partnership firm did not repay the loan as well as the interest, notice was issued from Canara Bank for securing the property. When the defacto complainant had approached the first accused, he and his family members stated that they have a house at Royapettah which would be sold and the amount would be settled to them and thereafter her property documents would be recovered from Bank. Whiles, on 21.12.2017 at about 01.00 p.m when the defacto complainant had gone to the house of the first accused to enquire about the land documents, the first accused and his family members have threatened her demanding Rs.2 Crores and they have also threatened her if she does not give money, she will be done to death by engaging hirelings.

3.The learned counsel for the petitioner would submit that the

first accused in this case who is the father had no intention to cheat the defacto complainant and her family members when the defacto complainant had entered into partnership firm with his father. He would further submit that his father had entered into an agreement with the defacto complainant in the name of 'Amman Beverages' and thereby, the father of the petitioner invested the amount of Rs.40 lakhs and the defacto complainant has also by mortgaging her property deposited an amount of Rs.1,90,00,000/-. Since the partnership firm did not repay the loan amount to the bank recovery proceedings were initiated. Whiles, due to the dispute between the partnership firm and the first accused, defacto complainant has filed suit for recovery of amount with the very same allegations which was pending in C.S.No. 873 of 2016 before this Hon'ble Court. While the suit was pending the defacto complainant in order to recover the amount and to bring the father of the petitioner for settlement, has given a false complaint against them as if they had cheated her and had threatened her. He would further submit that the occurrence took place on 27.12.2017, but the complaint was given on 29.01.2018 belatedly, almost after one month and no proper explanation had been given for delay and therefore, he prays to grant bail to the petitioner.

4. The learned counsel appearing for the intervenor vehemently opposed for grant of bail by stating that the petitioner and his family members cheated the defacto complainant to the tune of Rs.1,90,00,000/- and when she questioned the accused they threatened her by saying that she will be done to death by engaging hirelings.

5. The learned Additional Public Prosecutor would submit that the petitioner and his family members induced the defacto complainant to deposit an amount of Rs.1,90,00,000/- in the partnership firm and had cheated her.

6. I have gone through the First Information and heard the submissions made by the learned counsels on either sides and the learned Additional Public Prosecutor.

7. Taking into consideration the facts of the case and the submissions made by the learned counsels and also taking note of the fact that the petitioner has been in custody since 20.02.2018, I am inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on her executing 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 learned Metropolitan Magistrate for exclusive trial of CCB cases and CBCID Metrocases, Chennai, and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m. and 5.30 p.m until further orders.

[b] the petitioner shall not abscond either during investigation

or trial.

[c] the petitioner shall not tamper with evidence or witness 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 Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

07/03/2018

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 METROPOLITAN MAGISTRATE,
FOR EXCLUSIVE TRIAL OF CCB CASES AND CBCID
METROCASES, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

5 THE INSPECTOR OF POLICE
EDF-II, TEAM 9(A), CENTRAL CRIME BRANCH,
CHENNAI-7, CR.NO.40 OF 2018.

+3 CC to M/S.B.VIJAY Advocate on payment of necessary charges
SR.NO. 4525

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges
SR.NO. 4566

CRL OP.6641/2018

Date :07/03/2018

RD 07/03/2018