

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Second day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL ORIGINAL PETITION No.15144 of 2018

& CRL.MP.NO.8164 OF 2018

R.SHARMILA

[PETITIONER / ACCUSED]

Vs

STATE REP. BY ITS
INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
EDF-III TEAM 20,
CHENNAI.
CR.NO.7 OF 2018

[RESPONDENT]

B.PRASATH

[PETITIONER / DEFACTO COMPLAINANT]

[Ordered as per order of this Court dated 22/06/2018 made in
CRL.MP.NO.8164 OF 2018]

For Petitioner : M/S.R.GANESH KUMAR Advocate

For Respondent : MR. R.SURYA PRAKASH, Govt. Advocate (Crl. Side)

For Intervenor : MR.K.DHANANJAYAN Advocate

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

ORDER : The Court Made the following order :-

The petitioner apprehends arrest at the hands of the respondent police, who had registered a case against her in Crime.No.7 of 2018 for the alleged offences under Sections 420 and 506(i) of I.P.C.

2. The case of the prosecution is that the petitioner was arrayed as A1 and her husband was arrayed as A2. Crl.MP.8164 of 2018 has been filed by the de-facto complainant seeking to permit him to present him as intervenor and the said petition was allowed. The learned counsel for the petitioner submitted that A1 / petitioner is the absolute owner of the property and while in possession, she has entered into joint venture with defacto complainant Prasad with Jasmine Foundation in the Joint Development Agreement dated 13.03.2014 and also received a sum of Rs.1,00,00,000/- and and also received Rs.7,00,000/- and the joint venture is not fruitful.

3. According to the petitioner, the joint venture cannot be

completed for lack of the proper complaint by the defacto complainant. On the contrary, the learned counsel for the intervenor would state that there is a delay on the part of petitioner in entering into the joint venture agreement as agreed and the suit in C.S.No.406 of 2017 filed against this petitioner's husband before this Court is pending.

4. Aggrieved by the issue, it is alleged that the A1/petitioner herein has mortgaged the property with the defacto complainant and the cheque issued by the husband of the petitioner got dis-honoured for "Insufficient Funds" and necessary action was taken under Sections 138 and 142 of the Negotiable Instruments Act. Now, the defacto complainant has approached the respondent police on the ground that during the pendency of the suit, the petitioner herein mortgaged the property to the tune of Rs.1,00,00,000/- and such act amounts to cheating/violation under Section 420 of I.P.C and the accused was arrested on 30.05.2018.

5. The counsel for the intervenor referred to the complaint and the averments made in C.S.No.406 of 2017 and after going through the records and also various conditions in the joint venture and the averment in the plaint, it is seen that admittedly, the first petitioner is the owner of the property and she has exercised an act of ownership, by mortgaging the property in the absence of any interim order in the Civil Suit in C.S.No.406 of 2017.

6. In view of the above said facts and circumstances of the case, this Court is inclined to grant Anticipatory bail to the petitioner.

7. Accordingly, the petitioner 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 concerned Magistrate, on the following conditions:

(i) that the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees ten lakhs only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned :

(ii) the petitioner shall appear before the respondent-police daily at 10.30a.m until further Orders.

(iii) the petitioner shall not tamper the evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(vi) 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 is are 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]*.

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

-sd/-
22/06/2018

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 JUDICIAL MAGISTRATE,
NO.I, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 .
THE INSPECTOR OF POLICE, CENTRAL CRIME
BRANCH, EDF-III TEAM 20, CHENNAI.

+1CC to M/S.R.GANESH KUMAR Advocate on payment of necessary charges SR NO.11264

+1CC to M/S.K.DHANANJAYAN Advocate on payment of necessary charges SR NO.11275

CRL OP.15144/2018
& CRL.MP.NO.8164 OF 2018

Date :22/06/2018

MK:28/06/2018