IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

Bail Appl..No.6839 OF 2020

CRIME NO.1891/2018 OF Pathanamthitta Police Station, Pathanamthitta

PETITIONER/ACCUSED:

ASHA THOMAS
AGED 45 YEARS
W/O GEORGE THOMAS
MULANILKUM KALAYIL
EDAYARANMULA P O. ARANMULA
PATHANAMTHITTA
689532

BY ADV. SRI.C.B.SREEKUMAR

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
682031

SRI KP HARISH, SR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This petition is filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is a lady. She is arrayed as the accused in Crime No.1891 of 2018 of the Pathanamthitta Police Station. In the aforesaid crime, she is accused of having committed offences punishable under Sections 406, 420, 465, 468 and 471 of the IPC.

3. In the complaint lodged before the police by the RTO, Pathanamthitta, the de facto complainant states that the petitioner approached him seeking transfer of ownership of a vehicle bearing registration No.KL 36E 8022 and submitted the relevant documents which were seen signed by Smt.P.N.Jagadamma, the registered owner of the vehicle. Along with the application for transfer of ownership, the petitioner had also produced statutory forms signed by the original owner, the letter issued by the financier, receipts showing remittance of fees etc. The RTO acted on the application filed by the petitioner. Later, the original owner is alleged to have approached the RTO and he was informed that she had handed over the entire papers of the vehicle to a certain Prajith on the understanding that he would pay the value of the

vehicle, but he failed to pay the amount assured. Based on such complaint filed before the original owner, the police was alerted and the crime was registered.

4. Sri.Sreekumar, the learned counsel appearing for the petitioner submitted that the aforesaid Prajith approached the petitioner and entered into an agreement for sale in respect of the vehicle. Believing his words the petitioner transferred a total sum of Rs.14 lakhs to the said person, out of which Rs.9 lakhs was transferred through the account maintained by the petitioner with the State Bank of India and the balance amount by cash. To substantiate the said contention, reliance is placed by the learned counsel on Annexure-2 bank statement. She states that she is a bona fide purchaser and she was duped by the aforesaid Prajith. It is further contended that the petitioner had submitted a complaint before the Police arraying Prajith as an accused and the same is pending.

5. I have heard the learned Public Prosecutor who opposed the prayer.

6. I have considered the submissions advanced and have gone through the case records which were made available. Even according to the de facto complainant, she had entrusted the papers in respect of

her vehicle to Prajith and it was when he refused to pay the value of the vehicle that she proceeded to lodge a complaint before the authorities. The case of the petitioner is that she was approached by the aforesaid Prajith and a sum of Rs.14 Lakhs was collected from her. The police have seized the entire records from the office of the RTO. As to whether, the petitioner is an innocent purchaser or whether she has a larger role to play can only be deduced after the completion of investigation. However, I find that the prosecution has no case that the petitioner is involved in any other crimes. The records produced by the petitioner shows that substantial sums were transferred by her to the aforesaid Prajith. In the facts and circumstances, I do not think that the custodial interrogation of the petitioner is required for an effective investigation in the instant case. Stringent conditions can be imposed to ensure that the petitioner cooperates with the investigation.

In the result, this application will stand allowed. The petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation. Thereafter, if she is proposed to be arrested, she shall be released on bail on her executing a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum. The above order shall be subject to the following conditions:

i) The petitioner shall cooperate with the investigation and shall appear before the Investigating Officer on all Saturdays between 9 a.m. and 11 a.m., for two months or till final report is filed, whichever is earlier.

ii) She shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

iii) She shall not commit any similar offence while on bail.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

DSV