

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.06.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No. 9171 of 2020

P.Mary Thomas

... Petitioner/Accused

Vs.

State of Tamilnadu represented by
The Inspector of Police, [Crime]
E-3 Teynampet Police Station,
Teynampet, Chennai.
Cr.No.664/2019

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, to grant anticipatory bail to the petitioner/accused in the event of his arrest in Crime No.664/2019 on the file of the respondent police pending investigation.

For Petitioner : Mr.A.Thirumaran

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) of IPC, in Crime

No. 664 of 2019, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that the defacto complainant is an old lady and she was suffered with illness. Therefore, through her friend she contacted the Anna Nagar Police and through the Anna Nagar Police, the defacto complainant was admitted into the Home viz., Selvi Memorial Woman's Care run by the petitioner. There, in the presence of the petitioner, the defacto complainant was given treatment in the Hospital. Utilizing the age and also the circumstances, the petitioner has mortgaged the jewels belong to the defacto complainant worth weighting 391 grams and also received Rs.40,000/- cash from the defacto complainant in the name of treatment charges. Further alleged that petitioner also insisted the defacto complainant to execute power of attorney in respect of her plot at Anna Nagar in the name of Vinayagam. Hence, the complaint.

3 The learned counsel appearing for the petitioner submitted that the petitioner is the Managing Director of the Home, and she with the assistance of the Anna Nagar Police, was admitted into the home. Since, defacto complainant was suffering from illness, she was admitted into the hospital. Only on her insistence her jewels were pledged for the purpose of treating the defacto complainant. Insofar as the

power of attorney is concerned, the petitioner is no way connected and only on her own she executed power of attorney in favour of one Vinayagam. The petitioner never had any acquaintance with the said Vinayagam. He further submitted that the petitioner is ready and willing to deposit the amount which was received through pledging the jewels owned by the defacto complainant.

4 The learned Additional Public Prosecutor would submit that the petitioner is running a Home. When the defacto complainant was admitted into the Home through Anna Nagar Police, the petitioner has extracted jewels from her weighing 391 grams and pledged the same. The petitioner has also received a sum of Rs.40,000/- and compelled the defacto complainant to execute power of attorney in favour of one Vinayagam. The entire property belongs to the defacto complainant. There is absolutely no necessary for the defacto complainant to sell her own plot.

5 Heard both sides and perused the materials placed on record.

6 On a perusal of the records, it is seen that the petitioner is running an old age Home. The defacto complainant was admitted into her home with the help of Anna Nagar Police and admitted into hospital for her illness by the petitioner herein.

Thereafter, the jewels belong to defacto complainant were mortgaged and the said sum was received by the petitioner herein. Further, Power of attorney was also executed in favour of one Vinayagam by the defacto complainant.

7 Considering the above facts and circumstances and also the submission of the learned counsel appearing for the petitioner that the petitioner is ready and willing to deposit the amount which was received on mortgage of jewels belong to defacto complainant, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) in the name of Crime No.664 of 2019 on the file of the respondent police in any nationalized bank within a period of two weeks from the date on which the order copy made ready and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Metropolitan Magistrate No.XVIII, Saidapet @ Chennai, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) in the name of the Crime No. 664 of 2019 in any nationalized bank and the petitioner shall handover the receipt of the same to the respondent police.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

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

23.03.2020

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

Dua

G.K.ILANTHIRAIYAN. J.

Dua

To

1.The Inspector of Police, [Crime]
E-3 Teynampet Police Station,
Teynampet, Chennai.

2.The Metropolitan Magistrate No.XVIII,
Saidapet @ Chennai.

3.The Public Prosecutor,
High Court, Madras.



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