

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.11932 of 2020

A.J.S.Gandhimathi

... Petitioner

Vs.

The State Represented by,
The Sub-Inspector of Police,
Grand Bazaar Police Station,
J.N.Steer,
Puducherry.
(Crime No.263 of 2020).

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of her arrest in Crime No.263 of 2020 on the file of the Sub-Inspector of Police, Grand Bazaar Police Station, Puducherry.

For Petitioner : Mr. M.Vaikunth

For Respondent : Mr.Balamurugane
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 468 and 471 of IPC, in Crime No.263 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., N.Rajendiran, is that he was allotted the vegetable shop measuring at 2x2 at Grand Market, Puducherry. The shop was allotted to him by Puducherry Municipality. Further allegations that the petitioner by fabrication of document and grabbed his shop belonging to him.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and based on a false complaint given. He would further submit that the defacto complainant is attempting to grab the shop, which was already sold to her. On 20.06.2020, the defacto complainant had sold the shop to the

petitioner by way of unregistered sale deed and had received an amount of Rs.4,70,000/- from him. He would further submit that the sale deed could not be registered because there was a rule against transfer, the petitioner right from 2003 and had been running a vegetable shop in the premises. While so, on 05.05.2019, the defacto complainant registered a complaint to the respondent police alleging that the petitioner grabbed the shop from him. He would further submit that due to enquiry was conducted by the respondent police on the complaint was closed on 17.07.2020 with an advice that the defacto complainant to approach the Puducherry Municipality and other close of the complaint, the defacto complainant had approached the legal services authority Puducherry and based on reference the present complaint has been registered. He would further submit that the petitioner committed any fraudulent act. The defacto complainant after having received a sum of Rs.4,70,000/- during the year 2003 and hand over the possession as now attempted to evict the petitioners and based on the false complaint. Hence, he prays for the grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the shop was originally allotted to the defacto complainant and the petitioner fabrication and documents took possession of the shop. However, he would further submit that earlier enquiry was conducted by the respondent police and it has been closed. Further on reference from the legal services authority the case has been registered. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of her arrest or on her appearance, within a period of fifteen after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Chief Judicial Magistrate, Pondicherry, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, 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 report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

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

[e] 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].

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

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

14/08/2020

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 CHIEF JUDICIAL MAGISTRATE
PONDICHERRY.

2 THE PUBLIC PROSECUTOR
PONDICHERRY.

3 UNION TERRITORY OF PUDUCHERRY REPRESENTED BY
SUB INSPECTOR OF POLICE,
GRAND BAZAAR POLICE STATION,
J.N. STEER, PUDUCHERRY.

CC to M/S M.VAIKUNTH Advocate on payment of necessary charges

CRL OP.11932/2020

Date :14/08/2020