

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2020

CORAM :

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13109 of 2020

Sri Nethi

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.475 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail, in the event of his arrest in Crime No.475 of 2019, pending investigation on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

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

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 420 of IPC, in Crime No.475 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Arunkumar is that he had purchased the Bolero car from the petitioner/A2 through A1/mediator by paying an amount of Rs.2,00,000/-.Thereafter, there was some fault in the car and thereby, the defacto complainant had entrusted it to A1 for repairing it. A1 without the knowledge of the defacto complainant,had sold the Bolero car to someone else. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner himself is a victim. He would submit that after giving Rs.2,00,000/-, the defacto complainant took the vehicle and thereafter, the vehicle was not returned to them. Now, A1 and the defacto complainant are pointing fingers at each other and as ultimately, the petitioner is the victim. He

would submit that the petitioner is prepared to appear before the respondent Police for enquiry. He would submit that the case has been registered on Court direction. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor would submit that the petitioner is the owner of the Bolero car. A1 acted as a mediator and purchased the car from the petitioner and gave it to the defacto complainant for Rs.2,00,000/-.Thereafter, the car broke down and it was handed over to the A1 and A1 without the knowldge of the defacto complainant has sold into someone else. Hence, he opposed for grant of anticipatory bail to the petitioners.

5.Taking into consideration the facts and circumstances of the case and submissions made by 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 arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned **Judicial Magistrate No.IV, Salem**, on condition that the petitioner shall execute a separate 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 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) ATR 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/-

28/08/2020

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 JUDICIAL MAGISTRATE NO.IV,
SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VEERANAM POLICE STATION,
SALEM DISTRICT.

+1 CC to W.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO. 6069

CRL OP.13109/2020

Date :28/08/2020

GKS:04/09/2020

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