

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.14130 of 2020

Shanmugam

... Petitioner

Vs.

State represented by,
The Inspector of Police,
District Crime Branch,
Ooty, Nilgiris District.
Crime No.3 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on bail in the event of his arrest pending investigation in Crime No.3 of 2020 on the file of the respondent.

For Petitioner : Mr.R.Balakrishnan

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 offences punishable under Section 406 of IPC, in Crime No.3 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant one Divya, is that her husband is employed in Dubai and that she is a resident of Ooty. The petitioner/accused who is related to her, induced her to start a partnership business on the promise of giving good returns. Based on the inducement and assurance given by the petitioner/accused they started partnership Firm in the name and styles of "Dreams Real Firm" in which the de-facto complainant invested amounts to the tune of Rs.1,42,45,000/- which is 95% of the share and the balance amount was invested by the accused and the accused without the knowledge of the defacto complainant diverted an amount of Rs.69,00,000/- from the partnership firm to third parties and cheated the defacto complainant.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner and the de-facto complainant are close relatives and on the instructions of the defacto complainant's husband, the petitioner had invested the money in the real estate business and since the market is down due to COVID-19 situation, a false complaint has been given against the petitioner as if he has cheated them. He would further submit that

the petitioner without prejudice to his contentions and defence, is prepared to deposit the original title deeds of immovable properties worth about Rs.50 lakhs to the credit of Crime No.3 of 2020. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the accused induced the de-facto complainant to start a Firm on a false promise of getting huge returns. Thereby, the de-facto complainant had invested an amount of Rs.1,42,45,000/- and they started a Partnership Firm in the name of "Dreams Real Firm" and thereafter, without the knowledge of the defacto complainant, the accused diverted the funds to the tune of Rs.69 lakhs to the third parties and thereby cheated the de-facto complainant. Hence, he opposed to grant anticipatory bail to the petitioner.

5. Considering the above facts and circumstances of the case and the petitioner is ready to deposit the original title deeds of properties worth about Rs.50 lakhs to the credit of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

[a] the petitioner is directed to deposit original title deeds of immovable properties worth about Rs.50 lakhs, which stand either in his name or in the name of his relatives, to the credit of Crime No.3 of 2020. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Kothagiri, 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:

[b] 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.

[c] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

[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.

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

-sd/-

24/09/2020

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,
KOTHAGIRI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
OOTY, NILGIRIS DISTRICT.

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

CRL OP.14130/2020

Date :24/09/2020

RVR 07/10/2020