

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 18330 of 2020

Subathra

... Petitioner/Accused 3

Vs.

The State represented by,

The Inspector of Police,

J-9, Thuraipakkam Police Station, Chennai.

(Crime No.729 of 2020)

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 729 of 2020, on the file of the respondent police.

For Petitioner : Mr.A.Parthipan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 18.09.2020 for the offences punishable under Sections 120-B, 420 of IPC r/w Section 66-D and 66-C of the IT Act, in Crime No.729 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant viz., Karupaiya, is that the accused by running a fraudulent call centre, made calls to the wife of the defacto complainant and after getting his account number and OTP number, had fraudulently withdrawn an amount of Rs.20,000/- from his bank account. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and she has been falsely implicated in this case. He would submit that the petitioner was

employed in a tele calling firm run by one Mr.Vivekanandhan and as per the instructions given by the said Vivekanandhan, the petitioner has to call various persons and advertise about the projects and other than that the petitioner does not know anything. Whereas, the petitioner has been arrested on the false allegation that she had cheated the defacto complainant's wife and had withdrawn an amount of Rs.20,000/- from the defacto complainant's account. He would submit that the petitioner without prejudice to her defence and contentions, is prepared to make considerable amount to the credit of Crime No.729 of 2020 to show her *bona fides*. He would submit that the petitioner was arrested on 18.09.2020 and she has been suffering incarceration for more than 62 days. He would further submit that the respondent police has not filed any final report in this case till date and thereby, the petitioner is entitled to statutory bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose by stating that the petitioner was employed in a Tele calling firm and that she along with other accused by using bank and ATM card details of the defacto complainant, had fraudulently withdrawn an amount of Rs.20,000/- from the account of the defacto complainant. He would submit that several other complaints are pending against the firm and the petitioner. Further, he would submit that the final report has not been filed so far.

5. Taking into consideration of the facts and circumstances of the case, submissions made by the learned counsels, considering the fact that the respondent has not filed final report till date and also considering the period of incarceration by the petitioner from 18.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of Crime No.729 of 2020, on such deposit and production of proof, the petitioner is ordered to be released on bail on condition to 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 learned Judicial Magistrate No.II, Alandur and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

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

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
20/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.2,
ALANDUR

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, PUZHAL

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

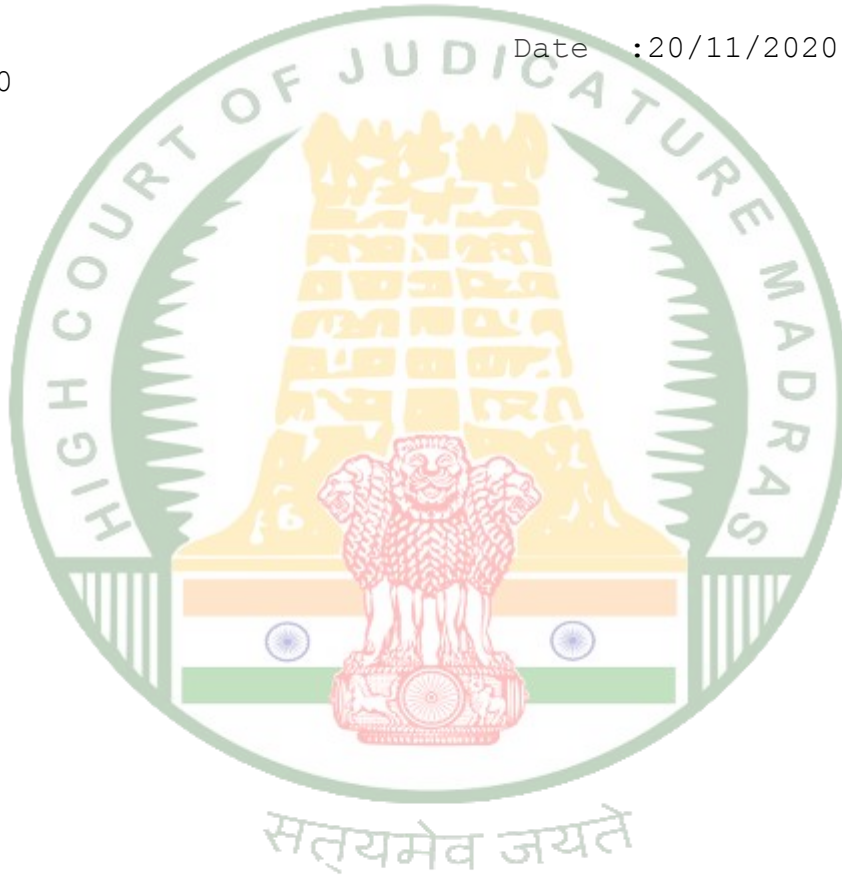
5 THE INSPECTOR OF POLICE,
J-9, THURAIPAKKAM POLICE STATION,
CHENNAI.

+1 CC to M/S.A.PARTHIPAN Advocate on payment of necessary
charges SR.NO.7700

CRL OP.18330/2020

Date :20/11/2020

GKS:23/11/2020



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