

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18410 of 2020

CRL.M.P.No.19410 of 2020

Nithya Praveenkumar

.. Petitioner

/versus/

The Inspector of Police,
B-1 North Beach Police Station,
Crime No.1860 of 2020.

.. Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C, to enlarge the petitioner on bail in the event of arrest by the respondent Police pending investigation of the case in Crime No.1860 of 2020 on the file of the respondent Police.

For Petitioner : Mr.C.P.Palanichamy

For Respondent : Mr.C.Iyyappa Raj
Additional Government Pleader

For Intervenor : Mr.B.Madhana

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294 (b), 461, 468, 471, 474, 477(A) r/w 420 IPC in Crime No.1860 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant/Devendran lodged a complaint against the petitioner and her husband on 12.11.2020. The said Devendran's elder daughter Charulatha married one Premkumar, who is the brother of Praveen Kumar/petitioner's husband. The said Charulatha, during the month of January 2016, started a business in the name of M/s.Universal Security Services at Thuraipakkam. Since Charulatha and Premkumar got settled in London from the year 2010 and they used to come to India once or twice in a year, the business was looked after by the defacto complainant, who is the father of the said Charulatha and assist him, the petitioner and her husband helped him and the company bank account at Kotak Mahindra Bank is maintained by Charulatha. From the year 2017, there was no business transactions in the bank account and

the petitioner and her husband do not come to office and take part in the business. Later, the defacto complainant came to know that the petitioner and her husband had started business in the same name at Puzhal, with false documents, they opened bank account in Indian Bank, Red Hills and thereby, misappropriated Rs.32 lakhs. It was found that for the past three years, there was no business done by the daughter Charulatha and the said Charulatha's Pan Card and company name have been misused by the petitioner and her husband and income returns have been submitted by them. Thus, the petitioner and her husband had forged the documents and misused the company name of the said Charulatha and misappropriated Rs.32 lakhs. When the defacto complainant questioned the same, they threatened and abused the defacto complainant. Since the father of A1 was an ex-employee of Official Liquidator Office, the defacto complainant could not get complete particulars from them. Further, it was found that the petitioner and her husband had damaged CCTV camera and taken the office records from the defacto complainant's office. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is the wife of Praveen Kumar and the petitioner's father-in-law is running a school namely Kings School at Kolathur. In the said school, Tmt.Charulatha had requested a room in 2nd floor to set up office for their business "Gravition International", which is a conference Organizing Company. Since the relationship between Tmt.Charulatha and her father-in-law got strained, a false complaint has been given by Charulatha's father-in-law, for which, C.S.R.No.722 of 2020 was assigned. Thereafter, the petitioner's husband had sent a representation to the Commissioner of Police on 24.10.2020, in which, he had stated that the said Charulatha and the defacto complainant had been making bald allegations against the petitioner and the entire dispute revolved around the school. Since they could not succeed in the same, the defacto complainant lodged a false complaint against the petitioner on 12.11.2020. On the very next day, the petitioner's husband was arrested on 13.11.2020. Thereafter, he was taken police custody and finally after 13 days of incarceration, he was granted bail by the Lower Court on 24.11.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that in this case, the defacto complainant, who is the father of the said Charulatha, had lodged a complaint to the respondent Police stating that his daughter's business was carried out by the petitioner and her husband, since his daughter had settled in London. Thereafter, in the year 2017, they have not come to office and also damaged CCTV camera and the office records have been taken away by them. Further, using the company name of his daughter's, the petitioner and her husband started another business and opened new account in the Indian Bank, Puzhal and also filed income returns using the Pan Card of said Charulatha. Thus, they have cheated and misappropriated an amount of Rs.32 lakhs. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the intervenor would submit that the Pan Number of the defacto complainant's daughter had been misused by the petitioner in their business transactions. The petitioner's father-in-law was an Ex-employee of the Official Liquidator office and in connivance of the Official Liquidator, they had misused the name of the defacto complainant's daughter and received the payments that are deposited in the second account opened by the petitioner and her husband. Thus, they have caused loss of nearly Rs.32 lakhs. He would further submit that the investigation is still pending.

6. Taking into consideration the fact that the petitioner's husband was arrested on 13.11.2020 and released on bail by the Lower Court on 24.11.2020 and the dispute is with regard to similarity in the name of Company and utilisation of Pan Number, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of her arrest or on her appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the learned VII Metropolitan Magistrate, George Town, 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 report before the respondent Police 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. Consequently, connected miscellaneous petition is also closed.

-sd/-
18/12/2020

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 METROPOLITAN MAGISTRATE
NO.VII, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-1 NORTH BEACH POLICE STATION.

+1 CC to M/S.C.P.PALANICHAMY Advocate on payment of necessary charges SR.No.8432

CRL OP.18410/2020
& CRL.MP.19410/2020

Date :18/12/2020

cs 06/01/2021