BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2020

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD)No.11752 of 2020

Bhuvaneswari ... Petitioner/3rd Accused

Vs

1. The State Rep. by
The Inspector of Police,
District Crime Branch,
Sivagangai District
Crime No. 22 of 2018. ... 1st Respondent/Complainant

2. Ramadass ... 2nd Respondent/Defacto Complainant

For Petitioner	: M/s.M.S.Jeyakarthik, Advocate.
For 1st Respondent	: K.Suyambulinga Bharathi, Government Advocate (Crl.Side)
For 2nd Respondent	: Mr.S.Villavankothai, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.22 of 2018 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A3 apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 420, 120(b), 506(ii) of I.P.C., in Crime No.22 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is working as a Chief Executive Officer in Global Technology in Kuwait. His family members were introduced with the first accused by the second accused. The petitioner herein is the wife of the first accused. The first accused has involved in spiritual

activities. Believing the words of the first accused, the defacto complainant transferred a sum of Rs.4.65 crores for constructing Ashramam for poor and orphans. The said amount has been transferred to the accused persons on various dates through bank transfer. After receiving the said amount, the accused persons have cheated the defacto complainant without constructing any Ashramam for poor. Hence, the complaint.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

4. The learned counsel for the petitioner submitted that the petitioner is the third accused. She is none other than the wife of the first accused. The first accused involved in spiritual activities. The first accused and the defacto complainant had so many transactions in respect of employing persons in abroad. He also produced various letters issued by the first accused as well as the defacto complainant containing so many names for appointment at Dubai. Further, he submitted that the alleged amount has been transferred by the defacto complainant only for the purpose of purchasing property at Sivagangai. No amount has been received for constructing Ashramam. He also produced sale deeds stand in the name of the defacto complainant. In fact, he further submitted that the defacto complainant also filed a suit in O.S.No.10 of 2019 on the file of the learned District Judge, Sivagangai for recovery of the money, in which the first accused was directed to furnish security to the tune of Rs.1 crore. The said condition was also duly complied with by the first accused. Insofar as the petitioner is concerned, she received a sum of Rs.57.61 lakhs and the property also purchased in the name of the defacto complainant. Therefore, she has not committed any offence as alleged by the prosecution.

5. The learned counsel for the defacto complainant submitted that the first accused is conducting spiritual activities. He was introduced by the second accused to the defacto complainant. Believing the words uttered by the first accused, the defacto complainant, transferred the amount through bank accounts to the tune of Rs.4.65 crores for construction of Ashrmam to the accounts of the accused persons. Due to their relationship, the first accused also sent so many persons for their employment and the defacto complainant has given employment to them. Thereafter, he came to understand that the first accused received huge amount from the persons employed by the defacto complainant. He further submitted that the sale deeds produced by the petitioner are no way connected with the present transactions. The petitioner already purchased the property at Sivagangai and the said documents have been now produced before this Court and those documents are no way connected with the present transaction. He further submitted that already the petitioner was granted anticipatory bail in an application for anticipatory bail suppressing the earlier dismissal order of this Court. Therefore, this Court cancelled the

anticipatory bail granted to the petitioner herein by order dated 04.09.2019. Therefore, he vehemently opposes for grant of anticipatory bail to the petitioner.

6. The learned Government Advocate (Criminal Side) submitted that there are six accused in this case, in which the petitioner is arrayed as third accused. The first accused is the husband of the petitioner herein. All are connected to each other and they are doing spiritual activities. Believing the words of the first accused, the defacto complainant transferred a sum of Rs.4.65 crores for construction of Ashramam for poor and orphans. All the accused persons having colluded together, after receiving the amount, cheated the defacto complainant and they did not take any action to construct any Ashramam. He further submitted that the first and fifth accused were already arrested and released on bail. Insofar as the petitioner is concerned, she already obtained anticipatory bail by the District and Sessions Court, Sivagangai. The said order was cancelled by this Court in Crl.O.P.(MD)No.5344 of 2019 by order dated 04.09.2019 on the ground that the petitioner suppressed the fact that her anticipatory bail application before this Court was dismissed. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioner.

7. It is seen that, totally there are six accused persons in this case, in which the petitioner is the third accused. She is none other than the wife of the first accused. On perusal of the statement of the accounts, it is seen that the petitioner received a sum of Rs.1.37 Crores from the defacto complainant. According to the defacto complainant for construction of Ashramam only, he transferred a sum of Rs.4.65 crores to the accounts of the accused on various dates. A perusal of the typed set of papers, it is seen that two sale deeds stand in the name of the defacto complainant for the property situated at Sivagangai. Therefore, it is seen that the defacto complainant paid the amount to the accused persons for purchasing property at Sivagangai. It is also seen that the first accused had sent so many persons for their employment in abroad and the defacto complainant also employed them. It is crystal clear that there are transactions between the accused and the defacto complainant with regard to getting employment for the persons at Dubai. Further on perusal of the accounts, the petitioner received a sum of Rs.1.37 crore and the defacto complainant also filed a suit for recovery of money in O.S.No.10 of 2019, on the file of the learned District Judge, Sivagangai, in which the petitioner and her husband were directed to furnish security to the tune of Rs.1 crore. The said order was also complied with by the first accused. Further, it is submitted that the petitioner is now ready and willing to deposit a substantial amount.

8. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is directed to deposit a title deed stands in her name or relatives or friends name not less than Rs.1 Crore to the credit of Crime No.22 of 2018 with proper valuation certificate issued by the authorities concerned within a period of two weeks. On such deposit, the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.2, Sivagangai, and on her executing 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 daily at 10.30 a.m for a period of four 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]; and;

(f)if the accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/11/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE No.II, SIVAGANGAI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
   SIVAGANGAI DISTRICT.

3. THE INSPECTOR OF POLICE,
   DISTRICT CRIME BRANCH,
   SIVAGANGAI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
   MADURAI BENCH OF MADRAS HIGH COURT,
   MADURAI.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-7306[I] dated 04/11/2020)

ORDER
IN
CRL OP(MD) No.11752 of 2020
Date :03/11/2020

TA
TE/AKM/SAR-IV : 18/11/2020 : 5P/6C