

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19..02..2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.1351 of 2021

Munira Begum

... Petitioner

Vs.

The State Rep. by
S.H.O., DCB,
Cuddalore Police Station,
Cuddalore District.
[Crime No.21 of 2020]

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of her arrest in Crime No.21 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Ms.S.R.Sumathy

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

For Intervenor : Mr.G.Sankaran

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.01.2021 in connection with a case in Crime No.21 of 2020 on the file of the respondent police for the alleged offences punishable under Sections 420 and 506(1) of IPC, is before this court seeking bail.

2. There are totally three accused in this case and the petitioner has been arrayed as A1. The petitioner is the owner of a house property situated at Kondur, Cuddalore. It is stated that she had entered into an agreement to sell her house property to the de facto complainant for a total consideration of Rs.44,00,000/-. The allegation against the petitioner is that having entered into an agreement of sale and received a sum of Rs.19,15,000/- as advance, the petitioner did not honour the agreement of sale and instead she had conveyed the house property to a third property and thereby cheated the de facto complainant.

3. The learned counsel for the petitioner would submit that the petitioner is a poor home maker. A3, who is her husband and A2, who was a broker, are only responsible for the entire transaction and she had no role in the alleged crime except she was the owner of the property in question.

4. The learned counsel for the petitioner would further submit that the petitioner has been in incarceration for more than 40 days in this case and she is a heart patient and she has been advised to undergo a bypass surgery. Therefore, the learned counsel prayed this court to enlarge the petitioner on bail.

5. The learned Additional Public Prosecutor would that the petitioner is a habitual offender and she has two other cases of similar nature to her credit. The petitioner neither discharged her obligations under agreement of sale nor returned the part sale consideration.

6. The learned counsel for the intervenor would also strongly oppose the granting of bail to the petitioner.

7. I have considered the rival submissions carefully.

8. On a perusal of the available materials, this court is of the prima facie opinion that the dispute is purely a civil nature which is sought to be converted into criminal nature. On considering the above and the other facts and circumstances of the cases including the health condition of the petitioner, 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 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 learned Judicial Magistrate -II, Cuddalore, 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 the respondent police as and when required by the respondent police for interrogation.

(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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
19/02/2021

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 -II,
CUDDALORE

2 THE CHIEF JUDICIAL MAGISTRATE,
CUDDALORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE S.H.O., DCB,
CUDDALORE POLICE STATION,
CUDDALORE DISTRICT.

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

+1 CC to M/S G.SANKARAN Advocate on payment of necessary charges SR NO. 2118

CRL OP.1351/2021

Date :19/02/2021