

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2809 of 2021

Vijaya

... Petitioner

Vs.

State by
The Inspector of Police
Central Crime Branch
Thiruppur City
Thiruppur District
(Crime No.9 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.9 of 2020 on the file of the Respondent.

For Petitioner : Mr.V.Chinnasamy

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 406, 420 r/w.109 IPC, in Crime No.9 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz. Geetha is that she is the resident of Thiruppur and that her husband is a tailor by profession and that one Vijaya was known to her for the past 15 years and that Vijaya's uncle Jayakumar used to visit the house of the said Vijaya and that thereby she got acquainted with Jayakumar from the year 2014. The accused Vijaya had told them that her uncle Jayakumar was doing business of real estate and had developed plots at several places and had offered to sell a plot for Rs.17 Lakhs. The defacto complainant on believing the representation made by the said Geetha, had paid Rs.17 Lakhs by various instalments. Further allegation is that the said Jayakumar neither registered any land nor repaid the money received from them. Further, on insistence, the said Jayakumar had taken the defacto complainant, her husband and her son to Sankaran Koil and took them to Suraindai Sub Registrar Office and registered a property. Thereafter, it was found that the said Jayakumar had played a fraud

on them and that he has not repaid the amount. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and she has been falsely implicated in this case. He would further submit that the defacto complainant and the said Jayakumar are know to the petitioner and that there was some money transactions between the defacto complainant and the said Jayakumar and the petitioner other than vouching for Jayakumar, had not committed any offence. Whereas, the money dispute has been falsely converted as a case of cheating in the real estate. He would further submit that the said Jayakumar was arrested by the respondent police on 25.09.2020 and remanded to judicial custody and the earlier application for anticipatory bail filed by the petitioner was dismissed on the ground that the said Jayakumar was under judicial custody. Further, the said Jayakumar had moved bail before the learned Judicial Magistrate No.3, Tiruppur and since the defacto complainant was unable to produce any documents to show the payment of Rs.17 Lakhs to him, the learned Judicial Magistrate had granted bail to the 1st accused / Jayakumar on 15.10.2020. He would submit that excepting vague allegation of cheating no valid documents have been produced by the defacto complainant to show that the amount was paid and the main accused had cheated her. He would further contend that a case of money dispute has been projected as a case of cheating in real estate. He would further submit that without prejudice to her contention and defence, the petitioner is prepared to deposit title deeds of immovable properties worth Rs.5 Lakhs to prove her bonafide. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the defacto complainant are neighbours. The 1st accused is related to the petitioner and the petitioner had introduced the said Jayakumar to the defacto complainant and the said Jayakumar in turn had represented that he is engaged in the business of real estate and promotion of lands. Based on the representation and inducement, the defacto complainant had paid Rs.17 Lakhs to the said Jayakumar, whereas, he had cheated the defacto complainant. He would further submit that the said Jayakumar / A1 in tis case has been arrested and enlarged on bail and the investigation is pending.

5.Heard the counsels.

6.Taking into consideration the fact and the submissions of the learned counsels and that the petitioner has come forward to deposit original title deeds of immovable properties to the credit of crime number, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

(a)the petitioner is directed to deposit original title deed of immovable property worth Rs.5,00,000/- (Rupees Five Lakhs only) which stands either in her name or the name of her friends or relatives to the credit of Crime No.9 of 2020 within a period of fifteen days from the date of receipt of a copy of this order.

Thereafter, the petitioner is directed to be released on bail in the event of her arrest or on her appearance before the Judicial Magistrate No.III, Thiruppur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically;

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police 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., for a period of two weeks and thereafter on every Monday 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.

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

सत्यमेव जयते
-sd/-

17/02/2021

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 NO.III
THIRUPPUR.

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

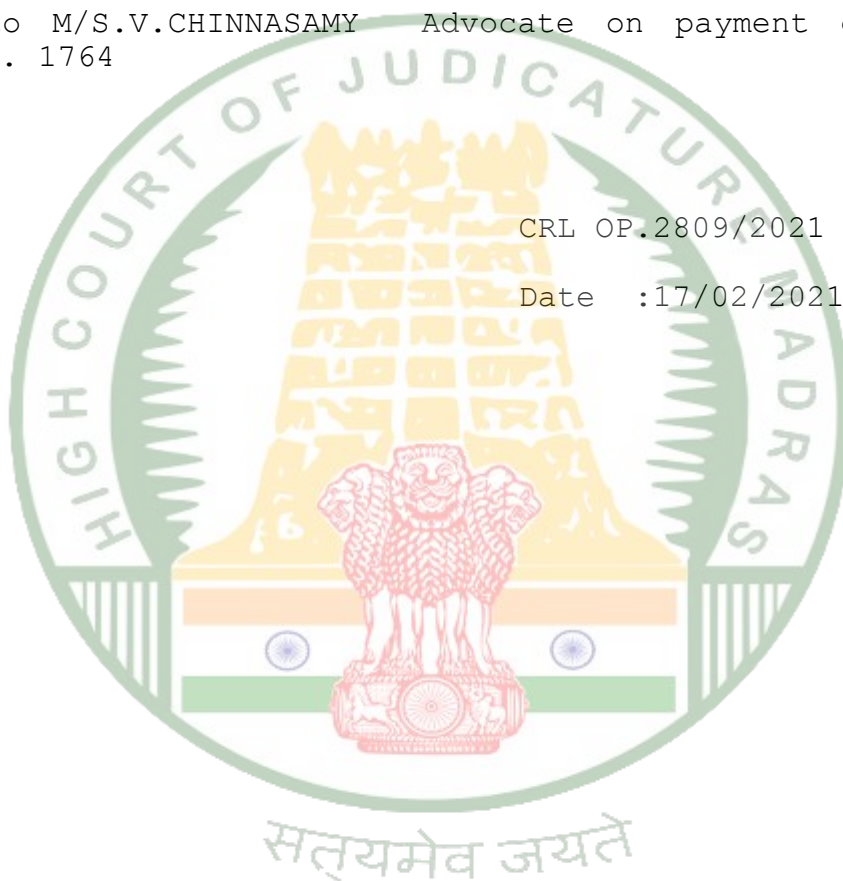
4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
THIRUPPUR CITY,
THIRUPPUR DISTRICT.

+1 CC to M/S.V.CHINNASAMY Advocate on payment of necessary
charges SR NO. 1764

CRL OP.2809/2021

Date :17/02/2021

MN-02/03/2021



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