

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2021

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.No.9694 of 2021

1.Rajeshwari
2.Ravi
3.Santhana Kumar @ Santhanam
4.Mohana Devi
5.Dhanalakshmi
6.Malarkodi

.... Petitioners/Accused Nos.1 to 6

Vs.

State represented by
The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.
Crime No.89 of 2021. Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.89 of 2021 pending investigation the file of Respondent Police.

For Petitioner : Mr.S.Balasubramanian

For Respondent : Mr.A.Gopinath
Government Advocate (Cr1. Side)

ORDER

The petitioners/accused who were arrested for alleged offence under Sections 406, 420 IPC and Section 3 of Prize Chit and Money Circulation Act, 1978 in Crime No.89 of 2021. The petitioners/accused 1 & 2 were arrested on 19.04.2021 and remanded to judicial custody on the same day and they are incarcerated in Prison for more than 42 days. The petitioners / accused 3 to 6 were arrested by the respondent police on 05.05.2021 and remanded to judicial custody on the same day and they are incarcerated in Prison for more than 21 days, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the first petitioner is running a chit from the year 2014. During 2019 due to failure on the part of the subscribers, she is unable to run the chit and refused to return the money to the subscribers. Hence the

3. The learned counsel for the petitioners submit that the petitioners are innocent. 1st petitioner is a widow, 2nd petitioner is son-in-law of the 1st petitioner, 3rd petitioner is son of the 1st petitioner, 4th and 5th petitioners are daughters of the 1st petitioner and 6th petitioner is daughter-in-law of the 1st petitioner and they are in incarceration from 19.04.2021. The first petitioner is aged about 58 years and she is taking medical treatment for her ailments. The first petitioner has no intention to commit cheating. The earlier bail petition filed by the petitioners was dismissed by the I Additional Sessions Judge, Chennai. Therefore, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl.Side), concedes that they are alleged to have misappropriated to the tune of Rs.47,93,850/- belonging to the same family i.e., A1 who is the mother, A2 is son-in-law of A1, A3 is son of A1, A4 & A5 are daughters of A1 and A6 is daughter-in-law of A1. Therefore, he vehemently opposed to grant bail to the petitioners.

5. Considering the period of incarceration suffered by the petitioners and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the petitioners 1, 2, 4 to 6 shall execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of Central Puzhal Prison, Chennai and in which the petitioners are confined and on such execution the petitioners shall be released from prison;

(b) the third petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of Saidapet Prison, Chennai, and in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(c) (i) After the lockdown restrictions are raised and normal time is restored, the restrictions are totally raised, the petitioners shall execute their own bond for Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum amount to the satisfaction of the V Metropolitan Magistrate, Egmore, Chennai. The same shall be executed within a period of one month from the date the lockdown restrictions are raised.

(ii) further the petitioners are directed jointly to surrender any of the valuable property as surety for an amount, that is alleged to have misappropriated from the subscribers, not below the value of 1/4th of the misappropriated amount before the V Metropolitan Magistrate, Egmore, Chennai.

(iii) If for any reason, the petitioners are not able to execute bond within the specified time, the petitioners shall approach this Court and file a petition seeking extension of time for the same.

(iv) While executing the bond, the sureties shall furnish proof of identity and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate shall obtain a copy of their Aadhar card or Voter ID or Driving license or Bank pass Book to ensure their identity to the satisfaction of the V Metropolitan Magistrate, Egmore, Chennai,

(d) After the lockdown restrictions are raised, normal time is restored, the petitioners shall abide by the following conditions imposed by this Court. He/she shall not interfere, influence or cause hindrance to the pending investigation.

(e) The petitioners shall not influence, threaten or coerce the witness either during investigation or trial;

(f) the petitioners shall not abscond either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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;

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

-sd/-

27/05/2021

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 METROPOLITAN MAGISTRATE NO.V,
EGMORE, CHENNAI.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE (CRIME),
K-4, ANNA NAGAR POLICE STATION,
CHENNAI-600 040.

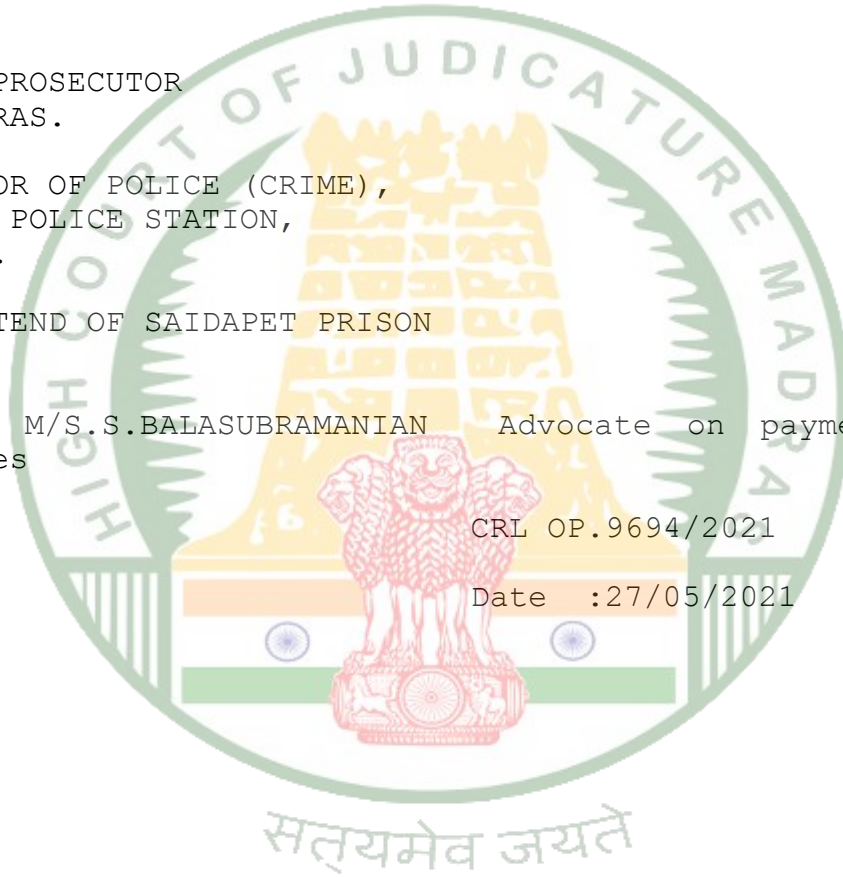
6 THE SUPERINTEND OF SAIDAPET PRISON
CHENNAI.

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

CRL OP.9694/2021

Date :27/05/2021

MK:31/05/2021



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