

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.Nos.**15638** & 20073 of 2020

[*]T.Deepak Kumar Jain
S/O.K.Tarachand Jain

... Petitioner / A3 in
Crl.O.P.No.15638/2020

T.Saroj Jain
W/O.K.Tara Chand Jain

... Petitioner / A2 in
Crl.O.P.No.20073/2020

Vs.

State rep. by
Inspector of Police(Crime),
P6 Kodungaiyur Police Station,
Chennai.
(Crime No.977 of 2020)

... Respondent in
both Crl.O.P.s

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Cr.No.977 of 2020 on the file of the respondent Police.

For Petitioners : Mr.R.Rajarathinam for
Ms. G.A.Girija

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

For Intervenor : Mr. John Sathyan

C O M M O N O R D E R

(The case has been heard through video conference)

Totally, there are three accused and the petitioners are arrayed as A2 and A3. They apprehend arrest at the hands of respondent police for the offence punishable under Section 306 of I.P.C. in Crime No.977 of 2020 and now, they have filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that the deceased in this case by name Rupesh was engaged in buying and selling the gold on commission basis and the deceased said to have borrowed jewels belong to his uncle one Gabriel and his wife, and pledged the jewels with A1, and received some amount. Thereafter, when the deceased requested him to return the jewels, he has refused to

return the jewels. That apart, some other accused also cheated the deceased. In the said circumstances, he has committed suicide. Hence, a criminal case has been registered against the petitioners, who are wife and son of A1. Now, apprehending arrest, they are seeking anticipatory bail.

3. The learned counsel appearing for petitioners would submit that so far as these petitioner are concerned, they are wife and son of A1 and absolutely, there is no allegation against them. The main allegation is only against A1 alone and they have been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned counsel appearing for defacto complainant/intervenor would submit that, the deceased has pledged nearly 3.5 kgs. of gold to A1 and he has cheated him. Hence, he is unable to return the jewels to the original owner, due to which, the deceased has committed suicide. So far as these petitioners are concerned, they are son and wife of A1, who are also actually involved in the transaction, thereby all the petitioners are arrayed as accused. A suicide note has been recovered from the deceased house, in which, he has clearly implicated A1 in this case stating that he has only received jewels, but failed to return the same and cheated him, these petitioners were also involved in the offence and hence, they were all implicated in this case.

5. The learned Additional Public Prosecutor appearing for the respondent would strongly oppose the bail petition stating that the investigation is still pending.

6. I have heard and considered the rival submission made by learned counsel appearing for petitioners, learned counsel appearing for intervenor and the learned Additional Public Prosecutor and perused the records.

7. Taking into consideration the fact that, the main allegation is only against A1, that he has received the jewels from the deceased and cheated him, and the petitioners are son and wife of A1 and there is no specific allegation made against them, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned X Metropolitan Magistrate, Egmore, Chennai on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioners shall appear before the respondent police as and when required for interrogation;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners 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 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];

[g] 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.

-sd/-
24/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

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[*]Being mentioned and Time granted vide order dated 24.03.2021 is extended for a further period of two weeks for executing the sureties, from the date of receipt of a copy of this Order, as per order of this Court dated 30/04/2021

TO

1 THE METROPOLITAN MAGISTRATE NO.X,
EGMORE, CHENNAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE (CRIME),
P-6, KODUNGAIYUR POLICE STATION,
CHENNAI.

5 THE ASSISTANT REGISTRAR,
TAMILNADU MEDIATION AND CONCILIATION CENTRE,
HIGH COURT, MADRAS.

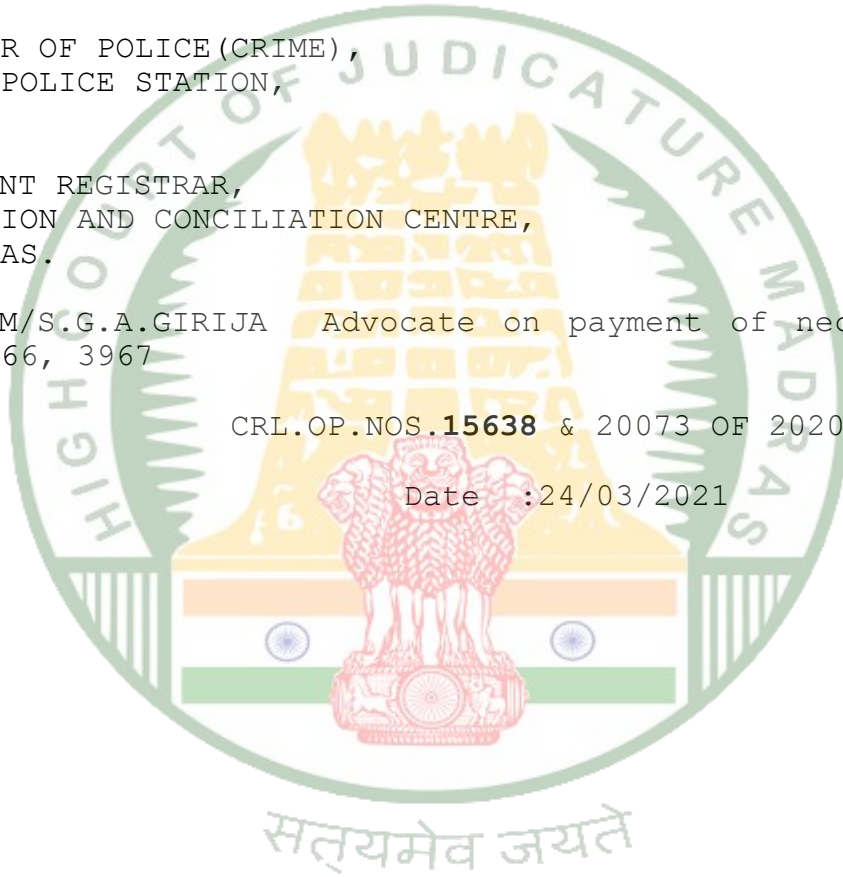
+2CC to M/S.G.A.GIRIJA Advocate on payment of necessary
charges SR NO.3966, 3967

CRL.OP.NOS.**15638** & 20073 OF 2020

Date :24/03/2021

MK:07/04/2021

MK:18/06/2021



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