



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

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

Crl.O.P. No. 20150 of 2020

Malarkodi

... Petitioner/Accused No. 2

-vs-

State Rep. by Inspector of Police,
Thiruppathur Town Police Station,
Vellore District.

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973, praying to enlarge the Petitioner on bail in the event of her arrest in Crime No. 1341 of 2020 on the file of the Respondent.

For Petitioner : Mr. C.Prabakaran

For Respondent : Mr. C.E.Pratap,
Counsel appearing for the Government.

O R D E R

(The case has been heard through video conference)

The Petitioner, who apprehends arrest at the hands of the Respondent Police for the offences publishable under Sections 406, 420, 294(b) and 506(i) of the Indian Penal Code, 1860, in Crime No. 1341 of 2020 on the file of the Respondent Police, seeks anticipatory bail.

2. The case of the prosecution as per De-facto Complainant is that the main accused, viz., A1, was introduced to him by one Saravanan stating that A1 is working in Rural Development Department and A2, who is the wife of A1, is the Commissioner of Thiruppathur Municipality and A3, is the son-in-law of A1 and A2, is working as Chief Engineer in the Tamil Nadu Housing Board. Thereafter, A1 made a false promise that he was securing job in Government Departments and he is offering house plots at cheaper rate. Hence, the De-facto Complainant believing the false promise made by A1 that he will secure Government job, he has collected Rs.4,00,000/- from 10 persons, which amounts to Rs.40,00,000/-. Thereafter, he also collected Rs.92,50,000/- from 10 persons believing that A1 will offer house plots at cheaper rate and paid the same to A1. After receiving the said amount, A1 neither secured the job nor registered the house plots and also failed to refund the amount. Hence, the complaint.



3. The Learned Counsel for the Petitioner would submit that the earlier application for anticipatory bail in CrI. O.P. No. 17389 of 2020 was dismissed on 05.11.2020. He would further submit that during the dismissal of the earlier application for anticipatory bail, certain important and vital facts were not brought to the knowledge of this Court. He would further submit that the Petitioner is working as Assistant Commissioner in office of the Thiruppathur Municipality. He would further submit that the Petitioner was married to A1, viz., Perumal, on 10.02.1989. He would further submit that at the time of marriage, A1 was working in the Rural Development Department and thereafter, there was change in his activities. He would further submit that A1 started harassing the Petitioner and also neglected the family due to which, the Petitioner filed a petition for divorce in H.M.O.P. No. 84 of 2015 before the Sub Court, Thiruppathur and the Sub Court had granted a decree of divorce by order dated 08.10.2015. He would further submit that thereafter, the Petitioner and A1 were living separately. He would further submit that A1 had committed the offence and he had received money from several victims and in order to recover the money, the victims have falsely implicated the Petitioner also in this case. He would further submit that even as per the complaint, the only allegation against the Petitioner is that she was stated to be present along with other accused at the time when A1 induced and received the money. He would further submit that the very reading of F.I.R. would go to show that taking note of the fact that the Petitioner is working as the Assistant Commissioner in the Thiruppathur Municipality, an attempt has been made by the De-facto Complainant to recover money by putting pressure on the Petitioner. He would further submit that the fact remains that the Petitioner and A1 were separated as early as 08.10.2015 and they were living separately. He would further submit that the alleged occurrence is stated to have taken place during the period from 18.06.2018 to 05.11.2018 and the Petitioner was not all living with A1 during the relevant period. He would further reiterate that since these facts were not brought forthwith during the hearing of the earlier application, this Court was pleased to dismiss the same. He would further submit that the Petitioner is also suffering from pelvic cancer and taking treatment with the Radiation Oncology Unit of the Christian Medical College, Vellore. Hence, he prays for grant of anticipatory bail to the Petitioner.

4. The Learned Counsel appearing for the Government would submit that there are totally six accused persons in this case and the Petitioner is arrayed as A2. He would further submit that the further allegation against the Petitioner is that she is wife of A1 and that she was present along with other accused when A1 had collected an amount of Rs.1,32,50,000/- from various victims by making false promise of getting jobs in Government Departments and getting allotment of house plots at cheaper rate and thereafter, cheated the victims. Hence, he would oppose for grant of anticipatory bail to the Petitioner.



5. Heard the Learned Counsels and perused the earlier dismissal order dated 05.11.2020.

6. This Court by order dated 05.11.2020 in Crl. O.P. No. 17389 of 2020 had dismissed the earlier application for anticipatory bail. It is now stated by the Learned Counsel for the Petitioner that the marriage between the Petitioner and A1 took place on 10.02.1989 and thereafter, the Petitioner finding that A1's character was not good, had filed the petition for divorce and the Petitioner has been granted divorce by order dated 08.10.2015 in H.M.O.P. No. 84 of 2015 passed by the Sub Court, Thiruppathur. Even as per the F.I.R., the allegation against the Petitioner is that she is stated to be present along with the other accused when A1 had received the money and other than that, there is no other allegation. In view of the same, this Court is inclined to grant anticipatory bail to the Petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail, in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Learned Judicial Magistrate Court No. 1, Thiruppathur, on condition that the Petitioner shall execute a separate bond for a sum of Rs. 15,000/- (Rupees Fifteen Thousand only) 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Respondent/Police may obtain a copy of their Aadhaar Card or Bank Pass Book to ensure their identity;

(c) the Petitioner shall report as and when required by the Respondent Police on summons.

(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 of India in P.K. Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(g) If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A of the India Penal Code, 1860.



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

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-sd/-
07/07/2021

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 COURT NO.I,
THIRUPPATHUR.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUB COURT,
THIRUPPATHUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUPPATHUR TOWN POLICE STATION,
VELLORE DISTRICT.

+1CC to C.PRABAKARAN Advocate on payment of necessary
charges SR NO.7179

CRL OP.20150/2020

Date :07/07/2021

MK:15/07/2021