IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.1948 of 2022

Mrs.V.Lakshmi ... Petitioner/Accused A2

Vs.

State rep. by
Inspector of Police,
Central Crime Branch, EDF-II, Team IX-A,
Vepery, Chennai 600007.
(Crime No.37 of 2020) ... Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail, in the case pending investigation in Crime No.37 of 2020 on the file of the Respondent police.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.N.S.Suganthan
Government Advocate

For Intervener : Mr.S.Senthil

ORDER

The petitioner who was arrested and remanded to judicial custody on 07.01.2022 for the offences under Sections 465, 468, 471, 420, 109 r/w 34 and 506 (i) of IPC in Crime No.37 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant was searching to buy a house at Chennai, at that time, one Loganathan has introduced A-3/Kamathchi and A4/Suresh Babu and they have stated that A1 is the owner of the ground floor portion of the building measuring an extent of 1180 square feet and 865 square feet of UDS and A3 is the owner of the 1st floor portion of the building measuring an extent of 1400 square feet of building and 865 square feet of Undivided Share situated at door No. 16/168, Rangarajapuram,

Kodambakkam, Chennia - 24. Accepting the same, an agreement of sale was entered into between the defacto complainant and A1 and A3 on 01.03.2018 for the sale consideration of Rs.3,15,00,000/-, further also the defacto complainant agreed to sell his Nallam farm house plot Nos. 98 and 99 , situated at Pattanur Village, Vanur Taluk, Tindivanam District, measuring an extent of 14400 square feet of land and 2050 square feet of house for the sale consideration of 2,00,00,000/-, the defacto complainant further has stated that as per the agreement of sale, he has executed the sale deed to and in favour of A1 on 15.10.2018, the same was registered as sale deed bearing document No. 4855 of 2018 and has paid a sum of 1,15,00,000/- to the accused on various occasions, totally a sum of Rs. 3,15,00,000/- to A1 and A3, but A1 and A3 failed and neglected to execute the sale deed for Kodambakkam property to and in favour of the defacto complainant. Further on next day i.e on 16.10.2018 A1 and A2 allegedly created the forged MOU dated 27.07.2018 with his Signature and has handed over the same to TATA Finance mortgaged the Pattanur property and received a sum of Rs.1,00,00,000/- had reedemed the Pallikaranai property belongs to A2, further A3 and A4 also joined together and had suppressed the fact that the unregistered sale deed was executed in his favour and had registered the 1st floor portion of the Kodambakkam property to and in favour of A5, Bharanidharan, A5 had mortgaged the same in favour of A6, after knowing the same, when the defacto complainant insisted A1, A3 A4 to register the kodambakkam property in his name, but all joined and threatened him with dire consequences. Hence, the complaint.

3. The learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and she has been falsely implicated in this case and he further submitted that the petitioner is the wife of the A1 she is no way connected with the alleged transaction initiated by the A1 and the defacto complainant, besides she also filed the Crl.O.P.No.14233 of 2018 before this Court seeking for not to harass her. Further submits that she has been suffering incarceration for more than 25 days from 07.01.2022 and he would pray for grant of bail to the petitioner.

4. The learned counsel for the intervener raised objection stating that the defacto complainant along with the petitioner husband entered into the sale agreement based on which, he transferred the property to A1. As per the terms of the agreement A1 bound to transfer his property to the defacto complainant, but, they refused to execute the sale deed as they agreed. Apart from that, the accused pledged the property before the TATA Capital and got a loan and utilise by her to discharge some other loan. Without executing the sale deed as per terms of their agreement, they cheated the defacto complainant, thereby he sustained loss nearly about two crores. Hence he vehemently opposed to grant of bail to the petitioner.

5. On seeing the facts, there was a sale agreement between A1 and the defacto complainant in the year 2018, the Modus operandi of the defacto complainant is that he used to grab the property by entering into agreement, subsequently failed to comply the terms, hence, he already filed the Crl.O.P.No.14233 of 2018 before this Court seeking for not to harass him and also considering the fact that the petitioner is the wife of A1, if she is released on bail she may not abscond or tamper the evidence, this Court is inclined to grant bail to the petitioner with certain conditions;

(a) the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioner has been confined and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned CCB & CBCID Metropolitan Magistrate Court, Egmore, Chennai, within 15 days from the date of commencement of the Court’s normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c)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;

(d) the petitioner shall report before the respondent police as and when requires for interrogation;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)the petitioner shall not abscond either during investigation or trial;

(h)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]; and;

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

-sd/-
04/02/2022

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 CCB & CBCID METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.

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

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, EDF-II,
TEAM IX-A,VEPERY,
CHENNAI - 600 007.

4 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
PUZHAL, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. R.JOHN SATHYAN Advocate on payment of necessary charges SR.NO.1898

CRL OP.1948/2022

Date :04/02/2022

JPA 07/02/2022