



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4047 of 2022

S.MALATHI

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
E1, SINGANALLUR POLICE STATION,
COIMBATORE.
(CRIME NO.74 OF 2022)

[RESPONDENT]

For Petitioner : M/S.S.A.SAYED SHUHAIBB Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Section 420 of I.P.C. in Crime No.74 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner has agreed to sell her property to the defacto complainant for a sale consideration of Rs.48,00,000/- and entered into a sale agreement. The defacto complainant has paid a sum of Rs.24,00,000/- to the petitioner on various dates and also applied for a loan in the Bank for paying the remaining amount. The loan was sanctioned for a sum of Rs.38,00,000/- in favour of the petitioner, after handing over the said amount by way of demand draft, the petitioner mutually agreed to return the excess amount of Rs.14,00,000/- by issuing a cheque. Accordingly, she issued two cheques to the defacto complainant for a sum of Rs.7,00,000/- each which have been returned with an



endorsement 'signatures do not match'. Later, the defacto complainant could not trace out the petitioner either through her mobile or in her house. Hence, the present case has been registered by the Law Enforcing Agency for the above said crime.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would further submit that the defacto complainant instead of filing a complaint under Section 138 of the Negotiable Instruments Act before an appropriate forum, present the false complaint before the police and as a result of which, the present case has been registered. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised an objection stating that the investigation is still pending.

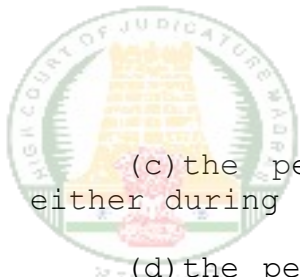
5. The submissions made by the learned counsel appearing for either sides are considered.

6. On going through the averments found in the FIR would disclose the fact that during the relevant point of time, the cheques bearing Nos.008201 and 008202, issued by the defacto complainant to the petitioner was returned on 29.06.2021 with an endorsement 'signatures do not match'. Obviously, for the said Act, provision is available under Section 138 of the Negotiable Instruments Act for lodging the complaint before the Judicial Magistrate Court under Negotiable Instruments Act. Hence, taking note of all the above said aspects into consideration, this Court is inclined to grant anticipatory bail to the petitioner.

7. 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 No.3, Coimbatore, on condition that the petitioner shall execute bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), with two sureties each 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 conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.00 a.m., until further orders;



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

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

(e) 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;

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

-sd/-

18/02/2022

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 JUDICIAL MAGISTRATE,
NO.3, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
E1, SINGANAILLUR POLICE STATION,
COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.A.SAYED SHUHAIBB Advocate on payment of necessary charges SR.NO.2672

CRL OP.4047/2022

Date :18/02/2022

JPA 25/02/2022