



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 05/12/2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.21083 of 2022

Noorjahan

... Petitioner/Accused

Vs

The State rep.by
The Inspector of Police,
City Crime Branch,
Tiruchirappalli
(Ref.Crime No.15 of 2020).

... Respondent/Complainant

Axis Bank Limited.
Triveni Building, 1st Floor, B-35,
Sastri Road, Thillai Nagar,
Trichy 620018,
Rep.by its Authorized Signatory,
A.Chandra Narayanan

... Petitioner/Intervener
In Crl.MP(MD).15189/2022 in
Crl.OP(MD).21083/2022

For Petitioner : M/s.Shanmugaraja Sethupathi D,
Advocate.
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor
For Intervenor : M/s.Pethu Rajesh
Advocate

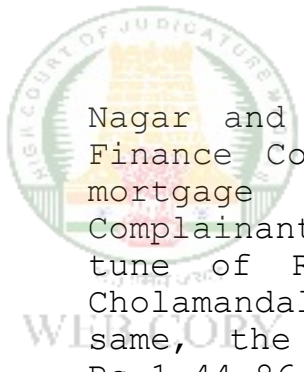
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.15 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 01.11.2022 for the offences punishable under Sections 406, 420, 421, 422 and 424 of IPC in Crime No.15 of 2020 on the file of the respondent police, seeks bail.

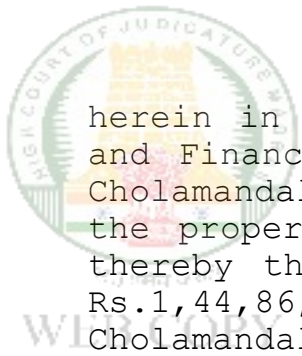
2. The case of the prosecution is as per the defacto complainant Manikandan is that the first and second accused are husband and wife and they have purchased a property at Thillai



Nagar and mortgaged the property in Cholamandalam Invest and Finance Company Limited and subsequently in order to redeem the mortgage the accused persons have approached the defacto Complainant's Axis Bank and demanded financial assistance to the tune of Rs.1,46,50,000/- for settling their pending loan in Cholamandalam Investment and Finance Company Limited. Believing the same, the defacto complainant/Axis Bank had remitted a sum of Rs.1,44,86,618/- to the Cholamandalam Investment and Finance Company Limited and the officials of Cholamandalam Investment and Finance Company Limited assured to release and handover the original documents which were mortgaged with them to the defacto complainant. The further averment is that A1 and A2 had to pay a balance amount of Rs.41,00,923/- and for the balance amount the first accused/Raja Mohamed issued a cheque and the said cheque was returned as insufficient funds and the said Raja Mohamed had not returned the original documents after redeeming the same from Cholamandalam Investment and Finance Company Limited to the defacto complainant. Later the accused 1 and 2 in collusion with the Cholamandalam Investment and Finance Company Limited had sold the property to third parties, thereby cheated the defacto complainant to the tune of Rs. 1,44,86,618/- Hence the case.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner. He would further submit that the petitioner is only a co-applicant for the loan. He would further submit that the petitioner being the wife of A1, except having signed some documents, she is not aware of the criminal activities of her husband/A1. He would further submit that the petitioner was arrested on 01.11.2022 and she is in custody for more than 32 days. He would further submit that the entire case of the prosecution is borne out by documents and further custodial interrogation of the petitioner may not be required, hence she may be granted bail. He would further submit that the petitioner's brother-in-law/Mr.Iqbal is ready to offer security to her and also ready to deposit original title deed in respect of a house property worth about Rs.60lakhs situated at Flat No.3K, Vins Maple, Yours Colony, Ramalinga Nagar 1st Main Raod, Woraiyur, Trichy-620003 belonging to him with the defacto complainant and he is also ready to create mortgage over the property and he has also filed an affidavit of undertaking before this Court. He would further submit that no purpose will be served in keeping the petitioner in jail.

4. The learned Additional Public Prosecutor would submit that the petitioner is the wife of A1. A1 is the owner of the property and earlier he had taken loan from the Cholamandalam Investment and Finance Company Limited. In the guise of seeking re finance the accused person have approached the defacto complainant for take over of loan and believing the representation the defaco complainant company had given a sum of Rs.1,44,86,618/- to Cholamandalam Investment and Finance Company Limited whereas the Petitioner



herein in collusion with the officials of Cholamandalam Investment and Finance Company Limited has taken original documents from the Cholamandalam Investment and Finance Company Limited and had sold the property without the knowledge of the defacto complainant and thereby they have cheated the defacto complainant to the tune of Rs.1,44,86,618/- He would further submit that official of Cholamandalam Investment and Finance Company Limited and the first accused/husband of the petitioner are absconding. Hence he vehemently opposed to grant bail to the petitioner.

5.The learned counsel appearing for the intervenor/defacto complainant would submit that the defacto complainant bank believing the petitioner and her husband had further given loan of Rs. 1,44,86,618/-for take over loan,whereas they have cheated the bank. Hence he objected to grant bail to the Petitioner.

6. Heard the learned counsel for the petitioner, learned Counsel for the intervenor and the Additional Public Prosecutor.

7. The petitioner is arrayed as A2. She is the wife of A1, who is the owner of the property and she only signed as co-applicant of the loan. She has been arrested and she is in custody from 01.11.2022. Now the brother-in-law of the petitioner /Iqbal has offered to stand as security to her and he had also volunteered to deposit the original title deed in respect of the house property situated at Flat No.3K, Vins Maple, Yours Colony, Ramalinga Nagar 1st Main Raod, Woraiyur, Trichy-620003 with the intervenor/defacto complainant and has also undertaken to execute necessary documents and create mortgage over the property. He has also filed an affidavit with regard to the same before this Court and in the affidavit he had also stated that there is no encumbrance over the property.

8. Considering the facts and circumstances of the case and also the fact that the petitioner's brother-in-law has volunteered to deposit title deed in respect of the house property worth about Rs.60lakhs situated at Flat No.3K, Vins Maple, Yours Colony, Ramalinga Nagar 1st Main Raod, Woraiyur, Trichy-620003 with the defacto complainant and create mortgage by deposit of the title deposit also considering the period of incarceration, this Court is inclined to grant bail to the petitioner.

9. Accordingly, the petitioner is ordered to be released on bail on his executing a 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 **learned Judicial Magistrate No.I, Tiruchirapalli** and on further conditions that :-

[a] 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.



[b] the petitioner shall report before the responder daily at 10.30 a.m., for a period of two weeks and thereafter on every Saturday at 10.30 a.m., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

[g] In the event of the failure of the surety Mr.Iqbal to comply with the undertaking within 10 days from the date of receipt of a copy of this order the respondent/intervenor is at liberty to file application for cancellation of bail.

10.Post the matter before this Court on 16.12.2022 under the caption 'for reporting compliance

sd/-

05/12/2022

/ TRUE COPY /

/12/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.I, TIRUCHIRAPPALLI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, TIRUCHIRAPPALLI.

4 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TIRUCHIRAPPALLI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.SHANMUGARAJA SETHUPATHI D Advocate SR.No.14362

+1 CC TO MR.PETHU RAJESH, ADVOCATE, SR.No.14411 (Date:06/12/2022)

ORDER IN

CRL OP(MD) No.21083 of 2022

Date :05/12/2022

AAV

SA/SSS/SAR.4/05.12.2022/4P/8C

<https://www.mhc.tn.gov.in/judis>