Crl.O.P.No.9239 of 2023

The second accused in FIR in Crime No.4 of 2019 registered on 16.05.2019 by the Central Crime Branch at Tiruppur under Sections 120B, 406, 417, 420, 465, 467 and 473 of IPC is before this Court seeking anticipatory bail.

2. The petitioner had filed earlier an application in Crl.O.P.No.21502 of 2019 before this Court and suffered an order of dismissal dated 18.09.2019. After nearly 4 years, the petitioner seeks anticipatory bail again. In the interregnum period, the petitioner had filed Crl.O.P.No.26906 of 2019 seeking to quash the first information report.

3. That particular Crl.O.P., had come up for consideration before a learned single Judge of this Court who by order dated 17.04.2023, had dismissed the said application. Directions were also given that the first respondent/investigating agency should file a final report within a period of six months from the date of receipt of a copy of that order.

4. To enable the investigating agency to file a final report, it is very essential that the petitioner should be examined by them. The nature of offences involved not only cheating but also forgery and creation of documents.

5. Heard learned Senior Counsel for the petitioner, learned Government Advocate on the Criminal Side for the respondent and the learned counsel for the Defacto Complainant, who had entered appearance.

6. The petitioner, her husband and others had originally been partners with the father of the defacto complainant and subsequently with the defacto complainant. It is alleged that the petitioner and the other accused had some how taken control of the firm which was originally run by the father of the defacto complainant and had over a period of time, eased out the defacto complainant from the partnership. It was re-constituted and it is stated that the machineries of the said partnership had actually been taken away and secreted by the accused persons.

7. In this connection, the primary allegation is that they had also created two forged documents and through the said documents, machineries of the firm had been sold to the third accused, namely, the husband of the petitioner herein.

8. It is contended that the petitioner was also a beneficiary to such sale along with the first accused. The sale deed by which such machineries had been sold was dated 19.01.2015. There had also been a necessity for the petitioner herein and her husband to also file a complaint against the defacto complainant. But it is stated by the learned senior counsel that that complaint

had not taken on file by the police but rather they were diverted to file civil suits.

9. Two civil suits have been filed, one by the first accused, which had been dismissed for non-prosecution and the second by the petitioner herein which is still pending in O.S.No.17 of 2019 before the District Munsif Court, Tiruppur.

10. The grievance of the defacto complainant is that, owing to the forgery of the documents and subsequent mortgage of machineries with the bank, the defacto complainant is an unhappy recipient of a demand notice of nearly about Rs.8.00 crores from the bank. For good measure, learned senior counsel on behalf of the petitioner states that they had also offered a property as collateral security to the defacto complainant which was also mortgaged with TIIC and the petitioner herein was also equally an unhappy recipient of a notice under Sarfaesi Act to bring the property to auction.

11. It is thus seen that all is not well with the partnership firm or with the activities of the partnership firm with one trying to take advantage of the other's disadvantage. Be that as it may, the onus is now shifted, consequent to the orders passed in Crl.O.P.No.26906 of 2019, to complete the investigation and file a final report before the jurisdictional Magistrate Court. They had been compelled to do so by the said order and a time limit had also been

fixed. Hence, the petitioner should participate in the investigation.

12. I am also now informed that the first and third accused had been arrested and had been subsequently released on bail. The investigating agency may issue notice under Section 41A of the code of Criminal Procedure to the petitioner herein who must, without default, answer the said notice, appear before the respondent and cooperate during the course of investigation. The investigating agency may also simultaneously issue notice to the defacto complainant to enquire into the factum stated in the complaint and thereafter complete the investigation and file a final report as directed in Crl.O.P.No.26906 of 2019.

13. The defacto complainant has taken a plea that some security should be directed to be given by the petitioner herein.

14. Anticipatory bail is granted to the petitioner herein taking into consideration the fact that there could be a possibility of the issues being resolved.

15. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on appearance, within a period of 15 days from the date on which the order copy made ready, before the Judicial Magistrate No.I, Tiruppur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten 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:

(a) the petitioner shall produce documents of any property to the value of Rs.1.00 crore before Judicial Magistrate No.I, Tiruppur, who may test the documents and also call for its valuation and if it is Rs.1.00 crore and above, retain the copies of the title deeds as security and create a charge/lien over the property and make necessary endorsement in the title deeds.

(b) the petitioner and 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 petitioner shall appear before the respondent at the first instance in response to notice under Section 41A and thereafter on every Monday at 10.30 a.m. until further orders or till the investigation is completed and final report is presented before Judicial Magistrate No.I, Tiruppur and should not fail to do so appear.

(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

C.V.KARTHIKEYAN,J.

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

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

Sl 12.09.2023

Crl.O.P.No.9239 of 2023