BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.02.2023
PRESENT
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P(MD)No.2942 of 2023

Muthumari ...Petitioner/Accused No.6

-vs-

The State represented by
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(in Cr.No.2 of 2023) ...Respondent/Complainant

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

PRAYER :-

For Bail in Crime No.2 of 2023 on the file of the Respondent Police.

For Petitioner	: Mr.C.Susi Kumar
For Respondent	: Mr.T.Senthil Kumar Additional Public Prosecutor
For Intervenor	: Mr.M.Jothi Basu

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 15.01.2023 for the offences punishable under Sections, 120B, 406 and 420 of IPC in Crime No.2 of 2023 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant, Karuppasamy, is that the accused were running a jewellary shop. They have also induced the de-facto complainant saying that they are also running the business called, Umaya City Promotors and Amuthasurabi Chit Funds and thereby, they have totally collected amounts to the tune of Rs.40,00,000/-. Later, during the course of investigation, it came to know light that the accused had cheated the depositors for more than Rs.40 crores and apart from the de-facto complainant and his friends, totally there are 1000 depositors. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and she has been roped-in in this case, since she happens to be the wife of A2 in this case. He would also submit that the petitioner has nothing to do with the business of her husband and other than receiving a sum of Rs.1,00,000/-, which has been transferred by her husband to her account, she has nothing to do with the alleged offence. He would further submit that the petitioner's husband, who was arrayed as A2 had committed suicide in a lodge in Tiruchendur, since he was cheated by his partners. Since the petitioner's husband passed away, now in order to put pressure on the petitioner and recover money, the petitioner has been falsely implicated in this case. He would also submit that petitioner was arrested on 15.01.2023 and she is in custody for more than 45 days. He would also submit that the petitioner is ready to abide by any stringent conditions, that may be imposed on her. Hence, he would seek for bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner is arrayed as A6 in this case. The petitioner's husband Late Rs.Subramanian, along with other accused had promoted various schemes on the promise of giving more returns and had collected more than Rs.40 crores from more than 1000 depositors and they have cheated the depositors. He would also submit that a sum of Rs.1,00,000/- has been deposited in the name of the petitioner. He would also submit that the respondent police has also taking steps to transfer the investigation to the Economic Offence Wing or any other competent authority. He would strongly object for grant of bail.

5.Mr.M.Jothi Basu, learned Counsel for the intervenor would submit that the de-facto complainant and his friends have deposited more than Rs.40,00,000/- based on the promise and assurance given by the accused. He would also submit that the petitioner along with her husband was involved in the day to-day affairs of the business and they are in-charge and responsible for the business. He would also submit that though the petitioner's husband, A2 had committed suicide, there is a larger conspiracy involved in this case, which has to be investigated in detail. He would also submit that the de-facto complainant has also filed a petition before this Court under Section 482 Cr.P.C., seeking to transfer the investigation from the respondent police to CBI and it is a case where, a large amounts have also been transferred to the foreign countries and investigation has also to be done by the Directorate of Enforcement. He would also submit that it is a family business and A3 is also the son in law of the petitioner. He would vehemently object for grant of bail to the petitioner.

6.Heard. Perused the materials available on record.

7.Though it is stated that it is a large scam, even as per the prosecution, an amount of Rs.1,00,000/- has been transferred to the petitioner. It is stated that the petitioner is a house wife and other than receiving a sum of Rs.1,00,000/-, the petitioner is not aware of the transaction done by her husband. Taking into consideration the facts and circumstances of the case and also the taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District, and on further conditions that:

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

(c) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, every Saturday. In the event of case being transferred, the petitioner shall appear before the concerned agency as and when called for enquiry.

(d) the petitioner shall not commit any offences of similar nature;

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

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

(g) on breach of any of the aforesaid conditions, the learned Judicial 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 petitioners 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];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
27/02/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3. THE SUPERINTEINDENT,WOMEN CENTRAL PRISON,
MADURAI.

4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT.

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

ORDER
IN
CRL OP(MD) No.2942 of 2023
Date :27/02/2023

MGJ/VS/28/02/2023/3P/6C