

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2021

BEFORE:

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO.3244 OF 2021

BETWEEN:

SMT. MUBINA TAJ
@ MUBEEN TAJ,
W/O ANSAR PASHA,
AGED ABOUT 44 YEARS,
NO.115, 5TH CROSS
EX SERVICEMAN COLONY,
RT NAGAR,
BANGALORE-560 032.

ALSO AT
#55, RAMAIAH BLOCK,
CHMANUNDI NAGAR,
NEAR KHALEELULLA MASJID,
BANGALORE NORTH-560 032.

... PETITIONER

[BY SMT. SOFIA MANSOOR FOR SRI. SYED MANSOOR AHMED,
ADVOCATES]

AND:

STATE OF KARNATAKA
BY R.T. NAGAR POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001.

... RESPONDENT

[BY SRI. H.R. SHOWRI, HCGP]

* * *

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HER ARREST IN CRIME NO.10/2021 OF R.T.NAGAR POLICE STATION, BENGALURU CITY FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 120B, 420, 506 R/W 34 OF IPC.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE/PHYSICAL HEARING, THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 438 of Cr.P.C. by petitioner/accused No.2 seeking anticipatory bail in Crime No.10/2021 of R.T. Nagar Police Station, Bengaluru, registered for offence punishable under Sections 506, 120B, 420 read with Section 34 of IPC.

2. Heard both side.

3. A private complaint was filed by one Sri. G.H. Zameer Pasha before the Court of Addl. CMM, Bangalore in PCR No.12695/2020. The same was referred to police for investigation and the aforementioned crime was registered against accused Nos.1 and 2.

4. The gist of the complaint is that, the accused persons approached the complainant in the 3rd week of July 2019 and expressed their intention to sell property bearing Southern portion of Site No.1, HLS No.89/5 situated at Chamundinagar Main Road, Cholanayakanahalli Village, Kasaba Hobli, Bangalore North Taluk, BBMP Ward No.96 (Hebbal) New No.33 of Manorayanapalya, Bangalore, measuring East to West : 27 feet and North to South : 20 feet, totally measuring 540 sft., consisting of 2 square ACC sheet roofed house and executed a sale agreement dated 30.08.2019 in favour of the complainant, agreeing to execute the sale deed within a period of three months from the date of its execution. Accused No.1 received the advance sale consideration amount of Rs.19 Lakhs from the complainant while executing the sale agreement out of total sale consideration of Rs.49 Lakhs. Thereafter the complainant came to know that the accused persons were constructing a house in the said property and accused No.1 has executed a registered gift deed dated 06.11.2019 in favour of accused No.2 in the office of the Sub-Registrar, Gandhi Nagar, Bangalore.

5. Learned HCGP has opposed grant of bail to the petitioner contending that after executing a sale agreement and receiving an advance amount of Rs.19 Lakhs from the complainant, accused No.1 has gifted the property in favour of his wife – accused/petitioner herein, which clearly show that the accused persons had an intention to cheat the complainant at the inception. He contends that both the accused have jointly hatched a conspiracy and played fraud against the complainant. He further submits that when the complainant requested the accused persons to return the amount of Rs.19 Lakhs or to execute the sale deed in his favour by receiving the balance sale consideration, the accused persons have abused the complainant in filthy language and threatened him with dire consequences. Hence, seeks to reject the petition.

6. As per the complaint averments, the property in question belonged to accused No.1 and he executed a sale agreement in favour of the complainant and received a sum of Rs.19 Lakhs as advance out of the total sale consideration of Rs.49 Lakhs. It is not alleged that the said amount was paid to the petitioner/accused No.2. The allegations are that

subsequently accused No.1 gifted the said property in favour of his wife i.e., petitioner herein by way of registered gift deed executed in the office of the Sub-Registrar, Gandhinagar, Bangalore. According to the learned counsel for petitioner, a civil dispute has been converted into a criminal offence and only to arm-twist the petitioner for resolving the civil dispute, criminal law has been set into motion. Whether there was any intention on the part of the petitioner to cheat the complainant or whether she has colluded with Accused No.1 and committed cheating etc, has to be established in due course. Petitioner has undertaken to abide by conditions and also to cooperate with the investigation. It is submitted that the parties are closely related to each other. Hence, by imposing suitable conditions, the relief sought by the petitioner can be granted. Hence, the following :

ORDER

Criminal petition is allowed.

Petitioner – Accused No.2 shall be released on bail in the event of her arrest in Crime No.10/2021 of R.T. Nagar Police Station, Bengaluru, registered for offence punishable under

Sections 506, 120B, 420 read with Section 34 of IPC, subject to following conditions:

- (i) Petitioner shall appear before the Investigation Officer within a period of ten days from the date of receipt of a copy of this order and shall execute a personal bond in a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for like sum.
- (ii) Petitioner shall furnish proof of her residential address and shall inform the I.O./court if there is any change in the address.
- (iii) Petitioner shall not tamper with the prosecution evidence/ witnesses in any manner.
- (iv) Petitioner shall cooperate with the investigation.
- (v) Petitioner shall be regular in attending the court proceedings.

**Sd/-
JUDGE**

snc