

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 620-621 OF 2020
(Arising out of SLP (Crl) No.10095-10096 of 2019)

KAVITHA
Appellant

...

VERSUS

THE STATE OF TAMIL NADU
Respondent

...

ORDER

Leave granted.

2. These appeals arise from the order of a learned Single Judge of the High Court of Judicature at Madras dated 22 October 2019 passed in CRLMP Nos.15153 and 13993 of 2019.
3. By the impugned order, the High Court has dismissed an application for extension of time to comply with the conditions imposed by an earlier order dated 27 September 2019 and for modification of the conditions imposed in the order of the High Court dated 4 July 2019.
4. Briefly stated, an FIR was lodged against the appellant on 27 May 2019 alleging that during the period when she had served as an Accountant in the company of the complainant, she had misappropriated certain funds. The appellant moved the High Court for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973. By an order dated 4 July 2019, the learned Single Judge of the High Court directed the appellant to deposit title deeds worth Rupees seventy five lacs to the credit of Crime No.445 of 2019 within a period of

four weeks subject to which she was granted the benefit of anticipatory bail.

Paragraph 8 of the order dated 4 July 2019 is extracted below :-

“8. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit the title deeds worth about to the tune of Rs. 75,00,000/- (Rupees Seventy Five Lakh only) stands in the name of her name/relatives/friends/family members to the credit of Crime No. 445 of 2019, within a period of four weeks from the date on which the order copy made ready, and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on her appearance, before the learned V Metropolitan Magistrate, Egmore, Chennai, on condition that the petitioner shall 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 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 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.
- (b) The petitioner shall deposit the title deeds worth about to the tune of Rs. 75,00,000 /- (Rupees Seventy Five Lakh only) standing in the name of her name/relatives/friends/family members to the credit of Crime No. 445 of 2019, before the concerned Magistrate, within a period of four weeks from the date on which the order copy made ready.
- (c) the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.
- (d) the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.
- (e) the petitioner shall not tamper with evidence of witness either during investigation or trial.
- (f) the petitioner shall not abscond either during investigation or trial.
- (g) 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].
- (h) If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC”.

5. The appellant filed a valuation report in respect of three title deeds. Subsequently, an application for extension of time to comply with the conditions imposed by the High Court was filed on 20 August 2019. The High Court granted an extension of two weeks for compliance failing which the benefit of the order dated 4 July 2019 was to be denied to the appellant. The appellant filed an affidavit before the Metropolitan Magistrate setting out what according to her was the correct valuation of the property. The Metropolitan Magistrate by an order dated 25 September 2019 observed that the title deeds were worth Rs.12.97 lakhs as a result of which the condition imposed by the High Court had not been complied with.
6. The appellant filed another application before the High Court for modification of the condition imposed in the order dated 4 July 2019 so that, instead of the direction to submit "title deeds to the tune of Rs.75,00,000/-", the condition would read as "property worth about Rs.75,00,000/-". The appellant also filed a petition for extension of time to comply with the directions of the High Court dated 4 July 2019. On 27 September 2019, the application for modification was listed before the High Court. The High Court directed the Magistrate to appoint an Engineer to evaluate the market value of the property and to file a report by 22 October 2019. The time period was also extended till 22 October 2019. The High Court, however, observed that no further time shall be granted. It appears that the Magistrate appointed an engineer for carrying out the valuation on 10 October 2019. The appellant filed another application seeking extension of time to comply with the directions of the High Court. The High Court by its impugned order dismissed both the application for modification as well as the application for extension of time though it has noted that the issue of valuation is still pending before the Vth Metropolitan Magistrate, Egmore, Chennai and the report is still awaited.

7. In this background, the submission of Mr. Nikhil Nayyar, learned senior counsel appearing on behalf of the appellant is that the report of valuation in terms of the order of the High Court dated 27 September 2019 is still awaited. Learned senior counsel urged that the appellant had to apply for an extension of time in view of the specific directions of the High Court in its order dated 27 September 2019 by which time was extended until 22 October 2019 subject to the stipulation that no further time shall be granted. It has been urged on behalf of the appellant that the delay which has taken place in submitting the valuation report is not on account of the appellant and hence the dismissal of the application for modification and extension time would cause grave prejudice to the appellant.
7. In pursuance of the notice that was issued by this Court on 14 November 2019, Mr. M. Yogesh Kanna appeared on behalf of the State of Tamil Nadu and filed a counter affidavit. In the counter affidavit, the Investigating Officer has stated that the investigation is at a crucial stage and statements of witnesses have been recorded. Hence, it has been submitted that custodial interrogation is necessary for investigation.
8. Mr. Nikhil Nayyar, learned senior counsel, on the other hand, submitted that in pursuance of the notice that was issued by the Crime Branch, the appellant appeared before the IO on 19 August 2020 and 16 September 2020.
9. The factual background which has been narrated above would indicate that the High Court, by its order dated 27 September 2019 called upon the Magistrate to appoint an engineer for evaluating the market value of the property which was offered by the appellant to comply with the conditions imposed in the order dated 4 July 2019. Evidently, the report has not been submitted by the Magistrate. In this view of the matter, the appellant sought an extension of time

having regard to the directions which were contained in the earlier order of the High Court dated 27 September 2019. The Court has been apprised of the fact that as a result of dismissal of the applications, the submission of the report by the Magistrate could not take place.

10. In the above background, in our view, the ends of justice would be met, if a further period of two months is granted to the Vth Metropolitan Magistrate, Egmore, to submit a report to the High Court in pursuance of the directions that were issued on 27 September 2019. On receipt of the report of the Magistrate, the High Court would be at liberty to consider as to whether any modification of its directions dated 4 July 2019 is warranted or, in the alternative, whether there has been compliance with the conditions which were imposed.
11. In order to complete this process, we direct that the interim protection which was granted by this Court by its order dated 14 November 2019 shall continue to operate until the High Court takes a final decision on the petition which has been submitted by the appellant. We, accordingly, direct that the petition for modification that was submitted by the appellant shall be restored to the file of the High Court for consideration afresh. In the meantime, we direct that the Magistrate shall, within a period of six weeks from today, submit a report on the valuation of the property, as directed by the High Court in its order dated 27 September 2019. The appellant would continue to have the benefit of the protection which was granted by this Court in its order dated 14 November 2019 until the submission of the report of the Magistrate and pending the disposal of the petition before the High Court for considering the modification of the conditions imposed in the order dated 4 July 2019.
12. The appeals are, accordingly, disposed of in the above terms.

.....J.
(Dr Dhananjay Y Chandrachud)

.....J.
(Indu Malhotra)

.....J.
(K M Joseph)

New Delhi;
September 21, 2020

