IN THE SPECIAL COURT UNDER THE TAMILNADU PROTECTION OF INTEREST OF DEPOSITORS (In Financial Establishment) ACT, 1997, MADURAI.

Present: Smt. K.R. Jothi, B.A., B.L.,
Special Judge,
Special Court under TNPID Act Cases,
Madurai.

Tuesday this the 22nd day of November 2022.

Cr.M.P. No.235/2022 in Cr.No. 08/2022
C.N.R.No.TNMD1B-000245-2022

Madhumitha (A4) ...Petitioner / Accused.

/ vs /

State through Inspector of Police,
E.O.W., Sivagangai
(Cr. No.08/2022) ...Respondent / Complainant.

/vs/

M. Jesuraj (58/2022),
S/o. Mariya Soosai,
Door No.3-47, Soorampati,
Satharasanpatti Post,
Karaikudi,
Sivagangai District. ...Defacto complainant/Intervener.

This petition has been coming before this Court today for final hearing, in the presence of Thiru.Baskar Maduram, the learned Advocate for the petitioner / Accused and Thiru.S. Paneer Selvam, the learned Special Public Prosecutor, appeared for the Respondent / Complainant and Thiru.T. Palanisamy, the learned counsel appearing for the Intervene petitioner and after hearing the arguments of the petitioner, respondent and the intervener, and having stood over till this day for consideration, this court doth the following:

ORDER

The petitioner had filed the petition u/sec.439 Cr.P.C. to enlarge her on bail, who is in incarceration since 19.10.2022, regarding with the Cr. No: 08/2022, on the file of E.O.W, Sivagangai, for the offences u/sec. 406, 420, 120(b) IPC & Sec. 5 of TNPID Act.

2). The brief averments of the petition is as follows:-

The respondent Police has registered the case against her for the alleged offences U/s.406, 420, 120(b) of IPC and Sec.5 of TNPID Act. The petitioner has arrayed as 4th accused in this case. The case of the prosecution is that the defacto complainant lodged the complaint against the financial establishment run by other accused in the name and style of Magizhchi Real Promotors, where the petitioner was working as staff in the said company and they had swindled a sum of Rs.22,00,000/- from the defacto complainant. The petitioner further submitted that she is innocent and has not committed any offence. The petitioner is ready and willing to offer substantial sureties imposed by this Court. The petitioner is remanded to judicial custody on 19.10.2022 and hence she prays to enlarge her on bail.

3). The brief averments of the reply filed by the respondenet is as follows:-

The Respondent / Complainant submitted that the Petitioner/Accused is involved in the case of offence U/s 406, 420, 120(b) IPC and sec. 5 of TNPID Act in Cr.No. 08/2022, on the file of Economic Offence Wing, Sivagangai. The petitioner is the staff working in the financial establishment in the name of Magizhchi Real

Promotors run by the other accused and they swindled a sum of Rs.22,00,000/- from the defacto complainant and thus the case was registered. The petitioner / accused signed in the deposit receipts issued to the depositors. The accused was remanded to judicial custody on 19.10.2022. The investigation is at initial stage. The movable and immovable properties of the accused yet to be found. If she is enlarged on bail, it will cause hindrance to the progress of the case and pray to dismiss this petition.

4). The brief averments of the intervening petition is as follows:

The petitioner is the defacto complainant and the intervener. The petitioner has served in the Indian Army and got retirement in the year 2002. In the year 2019 one Sivakumar, S/o. Angamuthu was introduced to the petitioner that they are doing real estate business in the name of Magizhchi Real estate Promotors. They had given false promise for a higher rate of interest for the deposit amount to the defacto complainant. Therefore he enquired with one Jerald, who is the relative of him, who has also invested in the above said financial establishment. The petitioner / defacto complainant had also deposited a sum of Rs.1,00,000/- on 20.03.2021 and further on various occasions he had deposited totally a sum of Rs.22,00,000/-. For that they had issued acknowledgement in the mode of receipts. Thereafter the petitioner requested to return the deposit amount but they denied to give the same and hence on 18.10.2022, he preferred a complaint before the E.O.W, Madurai. Hence he prays to dismiss the petition.

5). The point for consideration is whether to petition can be allowed?.

6). Heard the petitioner, the respondent and the intervenor. The learned counsel for the petitioner submitted that the petitioner was working as staff in the financial establishment and she is innocent and has not committed any offence. The petitioner is remanded to judicial custody on 19.10.2022 and hence prays to enlarge her on bail.

7). The learned Special Public Prosecutor submitted that the petitioner is the staff working in the financial establishment in the name of Magizhchi Real Promotors run by the other accused and swindled a huge sum of Rs.22,00,000/- from the defacto complainant. The accused was arrested on 19.10.2022 and remanded to judicial custody. The Investigation is in preliminary stage. The respondent is still receiving the complaints. If she enlarged on bail, it will cause hindrance to the progress of the case and pray to dismiss this petition.

8). The learned counsel for the intervener had submitted that one Sivakumar, S/o. Angamuthu was introduced the petitioner that they are doing real estate business in the name of Magizhchi Real estate Promotors and offered higher rate of interest for his deposit amount. Therefore after enquiry, on 20.03.2021 the petitioner / defacto complainant had deposited on various occasions totally a sum of Rs.22,00,000/-. For that they had issued receipts. Since they failed to return the deposit amount, he had given complaint before the respondent police and hence he prays to dismiss the petition.

10). Rival submissions of all sides had been taken into consideration. Records perused. Admittedly the case has been registered against Magizhchi Real estate Promotors in Cr.No. 8/2022, on the file of E.O.W, Sivagangai for the offences u/sec.406, 420, 120(b) IPC and sec. 5 of TNPID Act, wherein the petitioner is arrayed as the 4th accused. It is stated that she was the staff who had issued receipts for the deposits in the above said financial establishment and was arrested on 19.10.2022.

11). Under these circumstances, it is found that the petitioner was arrested on 19.10.2022 and is in judicial custody and the investigation is in preliminary stage and the investigating officer is yet to secure the movable and immovable properties of the accused and considering the facts of the case and the period of incarceration of the petitioner, this Court is not inclined to enlarge her on bail.

In the result, the petition is dismissed.

Pronounced by me in open court this the 22nd day of November 2022.

Sd/ K.R. Jothi,

Special Judge,
Special Court under TNPID Act cases,
Madurai.