

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 4<sup>TH</sup> DAY OF APRIL 2022 / 14TH CHAITHRA, 1944

BAIL APPL. NO. 2710 OF 2021

CRIME NO.1382/2019 OF Town East Police Station, Thrissur

PETITIONER/ACCUSED:

ARPITA PATHAK  
AGED 36 YEARS, 17, AUTO NAGAR,  
VADAVALLI ROAD, EDAYARAPALAYAM,  
COIMBATORE,, PIN - 641025.

BY ADV K.P.SUJESH KUMAR

RESPONDENT:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA  
ERNAKULAM, PIN - 682031
- 2 ADDL R2 SAJEEV GOPINATH  
S/O GOPINATH UNNITHAN, GOPIKA HOUSE, NAIKANAL, THRISSUR  
EAST, THRISSUR PIN; 680 001 IS IMPEADED AS ADDL R2 AS  
PER ORDER DATED 2/8/2021 IN CRL MA 1/2021

BY ADVS.  
PUBLIC PROSECUTOR  
C.DHEERAJ RAJAN  
K.ANAND (A-1921)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
04.04.2022, ALONG WITH Bail Appl..7831/2021, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 4<sup>TH</sup> DAY OF APRIL 2022 / 14TH CHAITHRA, 1944

BAIL APPL. NO. 7831 OF 2021

CRIME NO.1382/2019 OF Town East Police Station, Thrissur

**PETITIONER/2ND ACCUSED:**

GOWRI SHANKAR  
AGED 36 YEARS, S/O RAMACHANDRAN,  
17, AUTO NAGAR, VADAVALLI ROAD, EDAYARAPALAYAM,  
COIMBATORE, TAMIL NADU, PIN-641025.

BY ADV K.P.SUJESH KUMAR

**RESPONDENTS/COMPLAINANTS:**

1 STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM-682031.

2 SAJEEV GOPINATH  
S/O GOPINATH UNNITHAN, GOPIKA HOUSE,  
NAIKANAL, THRISSUR EAST, THRISSUR, PIN-680001.

BY ADVS.  
PUBLIC PROSECUTOR  
C.DHEERAJ RAJAN  
K.ANAND (A-1921)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
04.04.2022, ALONG WITH Bail Appl..2710/2021, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

**ORDER**

The petitioners are the accused in Crime No.1382/2019 of Town East Police Station, Thrissur District alleging commission of offences under Sections 420 & 506 of the Indian Penal Code. B.A. No.2710/2021 is filed by the 1<sup>st</sup> accused while B.A. No.7831/2021 is filed by the 2<sup>nd</sup> accused. The 1<sup>st</sup> accused is the wife of the 2<sup>nd</sup> accused in the case.

2. The allegation against the petitioners is that they defrauded a total amount of Rs.41,00,000/- which was transferred through bank account to the account of Sree Sastha Engineering Works, Coimbatore, a business establishment owned and operated by the 2<sup>nd</sup> accused in the case. It is alleged that the amount was paid on the promise that substantial returns would be made available to the *de facto* complainant. It is alleged that despite demand no return as promised was given and that only an amount of Rs.8,00,000/- was returned to the *de facto* complainant.

3. The learned counsel for the petitioners would submit that the petitioners are absolutely innocent in the matter. It is submitted that even if the entire allegations in the First Information Statement are true the matter is purely a civil dispute between the petitioners and the *de facto* complainant and the *de facto* complainant could not have set criminal law in motion. It is submitted that the petitioner in B.A. No.2710/2021 was arrayed as accused only after the filing of the present bail application and after the filing of a private complaint by the *de facto* complainant. It is submitted that the petitioner in B.A. No.2710/2021 has no connection with the business being run by her husband and she has been

unnecessarily arrayed as an accused only for the purpose of forcing the 2<sup>nd</sup> accused in the case to settle the matter. It is submitted that O.S. No.66/2021 has been filed by the *de facto* complainant against the 1<sup>st</sup> accused in the case and the same is pending before the Sub Court, Thrissur. It is submitted that an order of attachment of the residential property of the petitioner in B.A. No.2710/2021 has also been obtained and the claim of the *de facto* complainant is secured.

4. The learned Public Prosecutor and the learned counsel for the *de facto* complainant would oppose the grant of bail. It is submitted that there are clear allegations would suggest that the petitioners had defrauded the *de facto* complainant. It is submitted that the fact that a suit had been filed for recovery of money that does not mean that the offence had not been committed. It is submitted that the petitioners are not entitled to be released on bail. It is also pointed out that the 2<sup>nd</sup> accused in the case had failed to appear before the investigating officer despite issuance of a notice under Section 41 A of the Cr.P.C. It is submitted that this fact must be taken into account while deciding whether the petitioners are entitled to anticipatory bail.

5. Having regard to the facts and circumstances of the case and considering the nature of the allegations and also taking into account the fact that the *de facto* complainant has already initiated civil proceedings as mentioned above against the petitioners in respect of the same amount which is subject matter of the complaint, I am of the opinion that the petitioners can be granted anticipatory bail subject to conditions.

In the result, this bail application is allowed. It is directed that the petitioners shall be released on bail, in the event of arrest in connection with Crime No.1382/2019 of Town East Police Station subject to the following conditions:-

(i) Petitioners shall execute separate bonds for sums of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer;

(ii) Petitioners shall report before the Investigating officer in Crime No.1382/2019 of Town East Police Station on 11-04-2022, 12-04-2022 & 13-04-2022 at 10 a.m and thereafter as and when called upon to do so;

(iii) Petitioners shall not attempt to contact the *de facto* complainant or interfere with the investigation or to influence or intimidate any witness in Crime No.1382/2019 of Town East Police Station;

(iv) Petitioners shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.1382/2019 of Town East Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/-  
**GOPINATH P.**  
**JUDGE**

AMG