

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventeenth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.17957 of 2018

J.MALIK

[PETITIONER / ACCUSED]

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHENGALPET,
KANCHEEPURAM DISTRICT,
CR.NO.4 OF 2018.

[RESPONDENT]

For Petitioner : M/S.R.SUNDARA KAMESHMARTHANDAN Advocate

For Respondent : MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.4 of 2018 registered by the respondent police for the offence under Sections 417, 376, 506(i) and 294(b) of IPC.

2. The case of the prosecution as per the de-facto complainant one A.Immaculate Flora is that the elder brother of the petitioner herein, one Mubarak Shariff, who is arrayed as A1, on the promise of marrying her, committed rape and thereafter, refused to marry her and that when she had informed the petitioner, who is his younger brother, the petitioner along with other accused are stated to have abused her with filthy language and threatened her with dire consequences and also intimidated her.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since he happens to be the younger brother of A1 in this case. He would submit that the petitioner was not aware of the relationship between the first accused and the defacto complainant and that the entire case has been fabricated. He would submit that A1 and A2/the father of the petitioner were also arrested on 21.06.2018 and A2/the father of the petitioner was ordered to be released on bail by the Sessions Court on 16.07.2018.

4. The learned Additional Public Prosecutor would submit that A1 in this case, who is the elder brother of the petitioner,

committed rape on the defacto complainant on the promise of marrying her and later, cheated her, when she had informed it to the petitioner, the petitioner along with other accused abused her with filthy language. He would submit that A1 has been arrested and he is in custody and A2 has been arrested and later, released on bail.

5. Taking into consideration the facts of the case and the submissions made by the counsels, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Chengalpet, 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 said Magistrate, on further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent police daily at 10.30.a.m and 5.30.p.m until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
17/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
CHENGALPET.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
CHENGALPET,
KANCHEEPURAM DISTRICT.

+1CC to M/S.R.SUNDARA KAMESHMARTHANDAN Advocate on payment of necessary charges SR NO.13184

CRL OP.17957/2018

Date :17/07/2018

MK:23/07/2018