

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.7138 of 2020

R.Ajith kumar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.70 of 2020 on the file of the Velankanni Police Station, Nagapattinam District.

For Petitioner : M/s.P.Muthamizh Selvakumar

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 12.04.2020 for the offence punishable under Section 354 A, 376, 511 of IPC 1882 in Crime No. 70 of 2020 on the file of the Respondent Police, seek bail.

2. The case of the prosecution is that the defacto complainant one Lavanya who is residing as a neighbour to the petitioner was living alone with her parents after she left her husband due to some matrimonial dispute. On the date of occurrence i.e., on 17.02.2020 the defacto complainant went to an isolated place back, side of her house to attend nature's call, at that time the petitioner came, pushed the defacto complainant on the ground and attempted to remove her dress and tried to assault with intention to rape her. Thereafter the defacto complainant raised alarm and the petitioner escaped from the scene of occurrence. Hence the complaint.

3. The learned counsel for the petitioner submitted that already land dispute was existing between the two families. The defacto complainant and her family members used to create one problem or other with regard to the land dispute against the petitioner and his family members. On the date of occurrence the defacto complainant had picked up a wordy quarrel with the petitioner's family by abusing them in a filthy language and thereafter the petitioner intervened and tried to solve the quarrel. The heated arguments ended in push and pull in which the defacto complainant fell down and her dress got damaged. Using the same the defacto complainant had projected

as though the petitioner had attempted to rape her. The damage to the dress of the defacto complainant was only due to the push and pull and not with any other intention. The petitioner never made any attempt to rape or outrage modesty of the defacto complainant.

4. The learned Additional Public Prosecutor submitted that the petitioner is the neighbour of the defacto complainant. Taking advantage of the defacto complainant being single leaving her husband and residing with her parents, the petitioner was trying to make advances towards her. The defacto complainant resisted the same and even on earlier occasions she had warned the petitioner for his act. On the date of occurrence, the defacto complainant went to an isolated place, back side of her house to attend nature's call, taking advantage of the isolation the petitioner had pounced on the defacto complainant and removed her dress and attempted to commit rape. Thereafter on the alarm raised by the defacto complainant the petitioner ran away from the scene of occurrence. The petitioner indulged in serious offence and objected for the bail.

5. It is seen that this Court by order dated 27.03.2020 had granted interim bail to the petitioner till 28.04.2020 and that is the reason now the case has been posted before this Court. While granting interim bail the

petitioner had executed own bond of Rs.10,000/- before the Superintendent, District Prison, Nagapattinam. Taking into consideration that this Court had already granted interim bail to the petitioner and the submissions made the interim bail granted to the petitioner is regularised, subject to the following conditions:-

- (a) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;
- (b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;
- (c) the Petitioners shall report before the Respondent Police as and when required for interrogation.
- (d) the Petitioners shall not commit any offences of similar nature;
- (e) the Petitioners shall not abscond either during investigation or trial;
- (f) the Petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the Petitioners 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]; and

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

12.06.2020

Index: Yes/No
Internet: Yes/No
dpq



WEB COPY

M.NIRMAL KUMAR, J.

dpq

To

1. The learned Judicial Magistrate
Additional Mahila Court, Nagapattinam.
2. The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
3. The Superintendent
District Prison, Nagapattinam.
4. The Public Prosecutor
High Court, Madras.



Crl.O.P.No. 7138 of 2020

WEB COPY

12.06.2020