

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2020

CORAM

THE HONOURABLE Mr. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No.7999 of 2020

Poomozhi

... Petitioner

-Vs-

The State rep. By its,
The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
(Crime No.187 of 2020)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.187 of 2020 on the file of the respondent.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.03.2020 for the offence punishable under Sections 363, 294(b), 323, 343,

506(ii) and 307 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.187 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there was money dispute between the petitioner and the *de facto* complainant's family. Due to the said dispute, on 13.03.2020 at about 1.30.p.m, the petitioner kidnapped the *de facto* complainant and detained her in his house at Kitchipalayam, Salem. The petitioner abused the *de facto* complainant in filthy language, attacked her with hands and scissor with an intention to kill her.

3. The contention of the petitioner is that the *de facto* complainant's husband had taken a loan of Rs.18,00,000/- from the petitioner and he has not repaid the same. The petitioner pressurized for return of the money from the *de facto* complainant husband and the petitioner was contemplating to proceed against the *de facto* complainant's husband for recovery of the loan amount. As an offensive, a false case has been foisted by the *de facto* complainant against the petitioner as her husband has come to the petitioner's house, not returned home, thereafter, the *de facto* complainant is said to have

come to the petitioner's house, she was also kept in confinement. Later, the family members of the *de facto* complainant came there taken away the *de facto* complainant at her husband and that time she was attacked. The petitioner was sleeping with his wife and children in the same house and there was no confinement as alleged by the prosecution. Further, the petitioner is involved in political and social activities and he belongs to a Party called Tamil Nadu Makkal Katchi, which has been protesting against the harassment and curtailment of the rights of the minorities cases were registered against him for violating Section 30(2) of Police Act. The petitioner had successfully come out from all these cases. Hence, the respondent, taking advantage of the petitioner money lending business and dispute used the *de facto* complainant and arrested him in a false complaint.

4. The learned Additional Public Prosecutor would submit that the *de facto* complainant belongs to Srirangam. Her husband informed her that he is going to meet the petitioner. Thereafter, he did not return back. In search of her husband, the *de facto* complainant on 13.03.2020 had gone to the petitioner's house and found that her husband was confined. The *de facto* complainant was also kept in confinement. Thereafter, on 16.03.2020, the

mother and uncle of the *de facto* complainant came there and taken away the *de facto* complainant and her husband, at that time, the petitioner caused cut injury on the wrist of the *de facto* complainant. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Considering the rival submissions and also taking note of the fact that it is not in dispute that the husband of the *de facto* complainant taken loan of Rs.18,00,000/-, from the petitioner which he has to repay to the petitioner, further, the petitioner belongs to a Party called Tamil Nadu Makkal Katchi, which is fighting for the rights of the minorities. The petitioner is in judicial custody from 19.03.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison in which the petitioner has been confined, on his release;

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(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) the petitioner shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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]***;

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

29.05.2020

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M. NIRMAL KUMAR, J.

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To

1. The Judge,
Additional Mahila Court,
(Magisterial Level),
Salem.
2. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
3. The Superintendent,
Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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