

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.8422 of 2020

R.Prabhu

... Petitioner

Vs.

State rep by Inspector of Polcie,
All Women Police Station,
Gobichettipalayam,
Erode District.
(Crime No.3 of 2020).

...Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.,
to enlarge the petitioner on bail in respect of the above Crime No. 3
of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Peranban

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody
on 27.04.2020 for the offence punishable under Sections 294(b),
376 and 506(ii) of Indian Penal Code in Crime No.3 of 2020 on the
file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had
developed relationship with the defacto complainant for the past two
years. During the year 2018, the petitioner had forcible physical
relationship with the defacto complainant against her wish and
thereafter, he continued the same. The defacto complainant on one
such occasion, questioned the petitioner for which the petitioner
had assaulted the defacto complainant and broken her arm. On
24.04.2020, the defacto complainant was beaten and assaulted and
threatened by the petitioner. Hence, this complaint.

3. The learned counsel for the petitioner would submit that the
defacto complainant initially was married one Arunachalam and got
divorce. Thereafter, she was married one Senthil Prabu and had two
children. Thereafter, the said Senthil Prabu died in an accident.
Following which, the petitioner and the defacto complainant were in

relationship. Thereafter the petitioner slowly withdrew from the relationship and defacto complainant offended for the same, she was calling the petitioner through mobile and use to send whatsapp messages frequently and was disturbing him. She wanted to continue the relationship permanently hence, otherwise she would expose the relationship to everyone. The petitioner had gone and warned her not to indulge in such activities. Therefore, the false complaint has been lodged against him and hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that in this case the defacto complainant is a major and she had developed relationship with the petitioner. Thereafter, due to some misunderstanding the petitioner has beaten and broken her arm during September 2019 and the complaint came to be lodged on 24.04.2020. Thereafter, the petitioner was arrested after proper investigation. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Considering the facts and circumstances of this case, it is seen that the defacto complainant is major and she had two children. She has been living in relationship with the petitioner for the past two years. In view of the same, 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;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), 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;

(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 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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

11/06/2020

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,
COURT NO.I, ERODE

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GOBICHETTIPALAYAM,
ERODE DISTRICT.

CC to M/S.G.PERANBAN Advocate on payment of necessary charges

CRL OP.8422/2020

Date :11/06/2020

RD 21/09/2020