

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.8710 OF 2020

AND

CRL.M.P.NO.4212 OF 2020

Vellaidevan @ V.Vellayathevan

.. Petitioner

- Vs -

The State of Tamil Nadu
rep. By the Inspector of Police
W-7, All Women Police Station
Anna Nagar, Chennai - 40.

.. Respondent

Criminal Original Petition filed u/s 438 of the Criminal Procedure Code praying this Court to enlarge the petitioner on bail in the event of arrest pending investigation in Crime No.6 of 2019 on the file of the respondent police.

For Petitioner : Mr. R.Ravindra Ram

For Respondents : Ms.Saratha Devi, GA (Crl. Side)
Mr.D.Arun for Intervener

ORDER

This is the second anticipatory bail application filed by the petitioner. Learned counsel appearing for the petitioner submits that initially anticipatory bail application filed was rejected by this Court on 14.2.20 and, thereafter, the petitioner's adopted mother, viz., Rani, filed a complaint before the law enforcing agency based on the communication received under the Right to Information Act. However, the said complaint was not registered, which prompted the petitioner to file a private complaint u/s 156(3) Cr.P.C. on the file of the 5th Metropolitan Magistrate, Egmore, Chennai, for taking action against the defacto complainant and the court, after elaborate consideration directed the law enforcing agency to register the complaint and file a report. It is the submission of the learned counsel for the petitioner that many materials have been unearthed since the filing of the previous anticipatory bail application, including the response under the Right to Information Act as also many call records pertaining to digital communication

between the accused and the defacto complainant, which reveals that it is the defacto complainant, who has threatened the accused with dire consequences and not the other way, as portrayed by the defacto complainant. It is the submission of the learned counsel for the accused that the accused is an innocent person and the defacto complainant, having nexus with very influential persons is threatening the petitioner and on an subjective satisfaction, the complaint given by the petitioner has been directed to be registered, which clearly reveals that no prima facie case is available against the accused to proceed for custodial interrogation. Hence, he prays for allowing the petition by granting anticipatory bail to the petitioner.

2. Learned counsel appearing for the intervener submits that the defacto complainant had been subjected to sexual assault on various occasions and had been threatened by the accused and that the defacto complainant was made to part with huge sums of money by the accused which have been utilised by the accused for living a ravishing life and the accused had, almost, received a sum of Rs.15 Lakhs from the defacto complainant and the threatening is continuing which made the defacto complainant to file the complaint and if the accused is enlarged on bail, there would be danger to the life of the defacto complainant and, therefore, prayed for dismissal of the present petition.

3. On the above contentions, this Court heard the learned Government Advocate (Crl. Side) appearing for the respondent, who submitted that investigation is underway in the complaint preferred by the petitioner and also on the basis of the complaint registered on the direction of the court u/s 156 (3) Cr.P.C. at the behest of the stepmother of the accused and till the investigation is completed, granting anticipatory bail to the petitioner would cause much detriment to the investigation.

4. This Court heard the learned counsel on either side and also perused the materials available on record.

5. The facts in issue are not in dispute. Earlier bail application filed by the accused was dismissed by this Court on 14.2.20. However, it is to be pointed out that subsequent to the dismissal of the earlier bail application, no action has been taken by the respondent police to apprehend the petitioner. The gravity of the offence, as is revealed by the complaint filed by the defacto complainant, necessarily warrants immediate action on the part of the law enforcing agency to act diligently and vigilantly. However, in spite of the dismissal of the earlier petition by this Court, no steps have been taken by the law enforcing agency/respondent herein to trace and arrest the petitioner. The act of the law enforcing agency only reveals that not only all is well with the respondent, but the respondent is

also lethargic in taking action in the matter, which is not only grave, but shocks the conscience of even the common man. In the present days when atrocities against women folk is on the raise, it is incumbent on the part of the law enforcing agency to step in and take immediate action, more particularly on complaints of this nature, which alone will make the common man repose in law enforcement. However, the present case reveals a very sorry state of affairs, in which even after dismissal of the anticipatory bail application by this Court way back on 14.2.20, for more than six months, the law enforcing agency has not taken any concrete efforts to apprehend the accused, which act of the law enforcing agency is only enabling the accused to multiply the proceeding and, thereby, avoid the clutches of law. The above inaction on the part of the law enforcing agency definitely calls for stringent action against those persons at the helm of the investigative machinery.

6. In the case on hand, the detailed complaint of the defacto complainant against the accused reveals that the accused had outraged her modesty and also sexually assaulted her and further had threatened her with dire consequences if she does not comply with his demands. The investigative machinery has not completed the investigation till date, as is evident from the submission of the learned Government Advocate. In such view of the matter, though counter complaint has been lodged by the step-mother of the accused against the defacto complainant and certain call records and other materials are placed before this Court, the above materials cannot be considered as a change in circumstance to consider the relief sought for by the accused. The investigation has to be allowed to reach its logical end before considering the case of the accused, as the gravity of the offence does not warrant acceding to the request of the petitioner. In the above backdrop, this Court is of the considered opinion that it would not be prudent to grant the relief sought for by the petitioner.

7. Accordingly, this criminal original petition stands dismissed.

-sd/-

18/08/2020

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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 ADDITIONAL PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

2 THE INSPECTOR OF POLICE
W7 ALL WOMEN POLICE STATION
ANNA NAGAR, CHENNAI - 40.

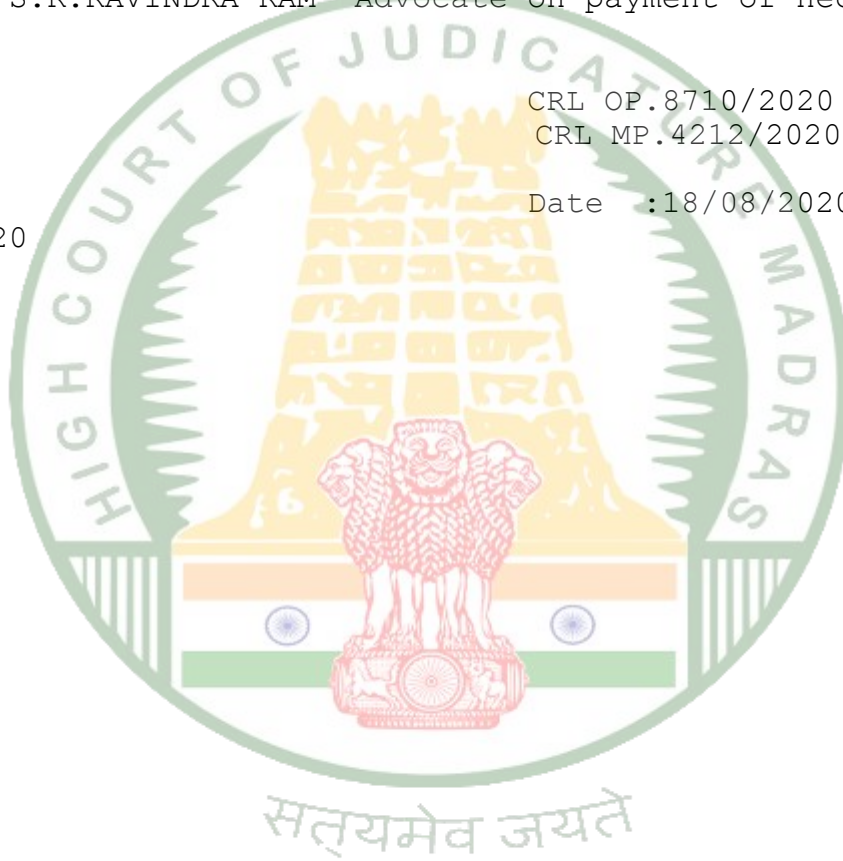
3 THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT, MADRAS.

CC to M/S.R.RAVINDRA RAM Advocate on payment of necessary
charges

CRL OP.8710/2020 &
CRL MP.4212/2020

Date :18/08/2020

GKS:21/09/2020



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