

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2020

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P No.9114 of 2020

S.Saravanan

... Petitioner

Vs.

State rep by its,
Inspector of Police,
W-26, All Women Police Station,
Chennai.
(Crime No. 7 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of arrest in Crime No.7 of 2020 on the file of the respondent Police.

For Petitioner : M/s.S.Shrenik Raj

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 109, 294 (b), 354 (D), 506 (i) IPC and 4 of Women Harassment Act r/w section 66, 67

and 72 of Information Technology Act in Crime No.7 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant had got separated from his husband and living separately and thereafter, she got married the petitioner. Subsequently, she came to understand that the petitioner was already a married man and thereafter the petitioner deserted her. Due to family dispute between them, she lodged a complaint and the same was registered in Crime No.1 of 2020 on the file of the Inspector of Police, All Women Police Station, Thirumangalam, for matrimonial offences and subsequently, it was closed as mistake of fact. Thereafter, she lodged the present complaint and the same has also been registered under Sections 109, 294 (b), 354 (D), 506 (i) IPC and 4 of Women Harassment Act r/w section 66, 67 and 72 of Information Technology Act. After registering the F.I.R., the petitioner along with another accused came to the residence of the victim and threatened their consequences.

3. The learned counsel appearing for the petitioner would submit that the defacto complainant is a divorcee and the petitioner is already married man. The defacto complainant and the petitioner were having relationship and the defacto complainant deceived huge money from the petitioner. Therefore, she lodged the complaint and the same was registered in Crime No.1 of 2020, subsequently, it was closed as mistake of fact. Thereafter, with the same set of allegation, the present complaint has been lodged and the respondent called the petitioner for enquiry under Section 41(A) of Cr.P.C and he also attended the enquiry. Therefore, he apprehends the arrest at the hand of the respondent Police.

4. The learned Additional Public Prosecutor would submit that the defacto complainant is a divorcee and on her complaint, already a case was registered under Section 294(b), 498 (A), 313, 406, 506(i) IPC r/w Section 3(1) of the TNPPDL Act by the W-8, All Women Police Sation, Thirumangalam, in Crime No.1 of 2020 and the same was closed as mistake of fact. Thereafter, the petitioner along with other accused, who is a retired Sub-Inspector of Police tortured and threatened her with dire consequences. They traced the residence of the defacto complainant by her cellphone tower location. The second accused was already arrested and remanded to judicial custody.

5. The learned counsel appearing for the defacto complainant/ intervener would submit that the petitioner suppressed the fact that he was already a married man and got married the defacto complainant, who is the divorcee. The defacto complainant tried to move away from the petitioner, but the petitioner along with other accused traced her residence and came to her residence and tortured her both physically and sexually. Hence, he opposed for grant of anticipatory bail to the petitioner.

6. It is seen that there are totally two accused, in which the petitioner is arrayed as first accused. Admittedly, the defacto complainant is the divorcee. According to her, she got married the petitioner and thereafter, there was a family dispute between them. In this regard, she already lodged a complaint before the Inspector of Police, All Women Police Station, Thirumangalam and the same was registered under Section 294(b), 498 (A),

313, 406, 506(i) IPC r/w Section 3(1) of the TNPPDL Act in Crime No.1 of 2020. Subsequently, after investigation, the same was closed as mistake of fact.

7. Considering the above facts and circumstances and also the nature of the allegation made in the subsequent complaint, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. 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 on which the order copy made ready, before the learned XVII Metropolitan Magistrate, Saidapet, on condition that the petitioner shall execute a separate 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[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 petitioners in accordance with law as if the conditions have been imposed and the petitioner/s 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 229A IPC.

22.06.2020

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To

1. The Inspector of Police,
W-26, All Women Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Madras.

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G.K.ILANTHIRAIYAN, J.

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