

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2020

CORAM :

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.10017 of 2020

1. Neelakandan
2. Shanmugam
3. Kamatchi
4. Shanmugam

.. Petitioners

/versus/

State represented by
The Inspector of Police,
All Women Police Station
Melmaruvathur,
Kancheepuram District,
(Crime No.01 of 2020)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.01 of 2020 on the file of Respondent Police.

For Petitioner : Mr.R.Sasikumar
For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor

O R D E R

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 13.06.2020 for the offences punishable under Sections 498 (A), 494 and 313 of I.P.C.and Section 4 of Women Harassment Act 2000 in Crime No.1 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de-facto complainant is that the marriage between the petitioner and the de-facto complainant took place on 10.10.2014 and out of the wedlock a female child was born to them. Thereafter, the petitioners have constantly harassed the petitioner by demanding dowry. When the de-facto complainant conceived for second time, the petitioners have caused miscarriage to her. Thereafter, they have demanded dowry and driven her from the matrimonial home. Further, the accused joined together and have performed the second marriage of the petitioner with minor girl aged 17 years and the first accused committed sexual assault on the minor girl.

3.The learned counsel for the Petitioner would submit that the petitioners are innocent and are falsely implicated in this case. He would further submit that due to matrimonial dispute,

the de-facto complainant left the matrimonial home and living with her parents and did not turn up till date. Further, when she demanded some lands from the petitioners, the petitioners refused for the same for which the present complaint is lodged by her in order to wreck vengeance against the petitioners. He would further submit that he is not pressing this petition in respect of the first petitioner who is the first accused.

4.The learned Additional Public Prosecutor would submit that the petitioners are arrayed as A1 and A4 and the first accused is the husband of the de-facto complainant while the accused 2 and 3 are his parents and A4 is the uncle of A1. He would further submit that all the accused have caused miscarriage to the de-facto complainant when she conceived for second time. He would further submit that the first petitioner have married a minor girl without the knowledge of the de-facto complainant and committed sexual assault on the minor girl. He would further submit that the respondent has secured the minor girl and recorded her statement.

5. Recording the submission made by the learned counsel for the petitioners, this petition is dismissed as not pressed in respect of the first petitioner.

6.Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioners 2 to 4 were incarceration from 13.06.2020, this Court is inclined to grant bail to the petitioners 2 to 4 subject to the following conditions:-

(a) Accordingly, the petitioners 2 to 4 are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioners has been confined and thereafter on their release;

(b) The petitioners 2 to 4 shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Judicial Magistrate, Muduranthakam within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 petitioners 2 to 4 shall report before the respondent police every day at 10.30 A.M. for a period of one week and thereafter as and when required.

(e) the petitioners 2 to 4 shall not commit any offences of similar nature;

(f) the petitioners 2 to 4 shall not abscond either during investigation or trial;

(g) the petitioners 2 to 4 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 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];

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

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

-sd/-
03/07/2020

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,
MADHURANTAKAM

2 THE CHIEF JUDICIAL MAGISTRATE
KANCHEPURAM DISTRICT [FOR INFORMATION]

3 THE JAILOR, SUB JAIL, SAIDAPET

4 THE JAILOR, CENTRAL PRISON (WOMEN), PUZHAL

5 THE ADDITIONAL PUBLIC
PROSECUTOR, HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, MELMARUVATHUR,
KANCHEPURAM DISTRICT.

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

CRL OP.10017/2020
Date :03/07/2020