

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2020

CORAM :

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

Crl.O.P.No.10977 of 2020

Anbazhagan,
S/o.Govindasamy,
Kumarampatti Village,
Koratti Post,
Thirupathur Taluk,
Thirupathur District

... Petitioner

- Vs. -

State rep. by
Inspector of Police,
All Women Police Station,
Thirupathur,
Thirupathur District.
Crime.No.5/2020.

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail in Crime No.5 of 2020 on the file of the respondent police.

For Petitioner : Mr.I.Periaswamy

For Respondent : Mr.T.Shanmugarajeswaran,
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested on 31.05.2020, for the offence punishable under Sections 376(2)(1), 294(b) and 506(i) of IPC, in Crime No.5 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Geetha, who is a deaf and dumb, is that on 06.05.2020, the petitioner waylaid her in a mango grove and committed rape on her, when it was questioned by the mother of the de facto complainant on the next day, the petitioner had abused the victim's mother with filthy language and threatened her.

3. The learned counsel for the petitioner would submit that the petitioner and the de facto complainant are relatives and known each other for several years. He would submit that there was consensual affair between the petitioner and the de facto complainant. While due to financial dispute, there was enmity between the

petitioner and the family of the de facto complainant and thereby, a false case has been registered as if the petitioner had committed rape. He would submit that the major part of the investigation is over and the petitioner is in custody for more than 60 days.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent would submit that the de facto complainant and the petitioner are relatives. On 06.05.2020, the petitioner waylaid the victim and committed rape on her in a mango grove, when it was questioned by the mother of the de facto complainant on the next day, he had threatened the family members of the de facto complainant. He would submit that the petitioner is married man, aged about 45 years and the victim is aged 34 years.

5. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant bail to the Petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail on executing 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 and thereafter on his release;

(b) the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate-II, Thirupathur, within 15 days from the date of lifting of the lockdown or the commencement of the Court's normal functioning, whichever is earlier, 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 stay at Vellore and report before the Sathuvachari police station every day at 10.30.a.m until further orders;

(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.

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

-sd/-
29/07/2020

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,
NO.II, THIRUPATHUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPATHUR, THIRUPATHUR DISTRICT.

CC to M/S. I.PERIASWAMY Advocate on payment of necessary charges

सत्यमेव जयते

CRL OP.10977/2020

Date :29/07/2020

RD 27/08/2020

WEB COPY