

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.11713 of 2020

J.Shanmuga Rajesh

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Thudiyalur.
(Cr.No.9 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.9 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.D.Saikumarran

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

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 66 A of Information Technology Act and Sections 498 (A) and 406 of IPC, in Crime No.9 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the marriage between the petitioner and the defacto complainant took place on 23.05.2010 and that they are having a child. Further allegation is that the petitioner demanded dowry and in an inebriated condition had a physical affair with the defacto complainant. Further allegation is that later, the petitioner had also posted the abusive contents against the defacto complainant in a website called as Locanto. Hence, the complaint.

3. The learned counsel for the petitioner would submit due to matrimonial dispute between the petitioner and the defacto complainant, a false case has been given. Due to intervention of relatives and friends, the parties have settled the dispute between them pursuant to which, the parties have agreed to dissolve the marriage between them. In respect of maintenance, as per the settlement, the petitioner had offered an amount of Rs.25 lakhs to the defacto complainant and her child in full and final settlement.

Pursuant to the same, the petitioner had paid a sum of Rs.25lakhs by way of Demand Draft and the arrangements are being made for divorce by mutual consent before the concerned Court. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is the husband of the defacto complainant. The petitioner had harassed and threatened her and in an inebriated condition had a physical affair with her and later, he posted abusive contents in the website called as Locanto. Hence, he vehemently opposed the grant of anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that the matter has been settled between the parties and a memo has been filed to that effect before this Court.

6. Taking into consideration the facts and submissions of the learned Counsel and also the fact that the memo has been filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate, Mettupalayam, on condition that the petitioner shall execute a 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 one week and thereafter every Monday at 10.30 a.m., until further orders.

[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 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

06/11/2020

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,
METTUPALAYAM

2 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THUDIYALUR.

CC to M/S. D.SAIKUMARRAN Advocate on payment of necessary charges

CRL OP.11713/2020

Date : 06/11/2020

RVR 23/11/2020

WEB COPY