

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.11144 of 2020

Ananda Padmanaban Parthasarathy

... Petitioner

Vs.

The State Represented by, ...Respondent
The Inspector of Police,
All Women Police Station,
Mylapore.
Crime No.05 of 2020.

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of arrest in Connection with the Crime No.05 of 2020 pending on the file of the respondent police.

For Petitioner : Ms. R. Saranya

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

For Intervenor : Mr.Edwin Prabakar

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 376, 420 and 506(1) of IPC in Crime No.05 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 she is an Architect and working as a Faculty in ICAT Design Media College, Mylapore, Chennai During the Month of April 2019, she got acquaintance with the petitioner through what's app group named "Dogs rescue" and they became friends. The further allegation is that the petitioner had approached the defacto complainant with a proposal to love and he had promised to marry the defacto complainant and he had told her that he cannot live without her. Believing the

petitioner's words, the defacto complainant accepted his proposal. In these circumstances, the petitioner used to pick her up from her college and had taken her to beach, theatre and other places around her college. In the meantime, he had received a sum of Rs.3.88 lakhs from her on various dates. Further, on the false promise of marrying her, convinced her for his biological needs and had sexual intercourse with her on several occasions when the defacto complainant had asked him to marry her, the petitioner told her that his parents will not accept their love and that he need some time to convince them. Believing his words, the defacto complainant accompanied him in all instances. Thereafter, from December 2019, the defacto complainant had refused to budge to his monetary and physical demands and thereby the petitioner became aggressive and abused her verbally and emotionally and assassinated morally turpitude her character and later when the defacto complainant had asked for return of money, he refused to repay the same. Hence the case.

3. The learned Counsel for the petitioner would submit that the petitioner is aged about 26 years and the defacto complainant is aged about 32 years and she is well qualified and mature lady. She had completed her course in Architecture and employed as the Head of the Department in ICAT Designs Media College, Mylapore, Chennai and is capable of understanding the consequences in the relationship. A case of consensual affair and financial dispute, has been exaggerated and a false complaint has been given against the petitioner which has been projected as a case of rape. She would further submit that earlier a compliant was given against the petitioner at Mylapore Police Station, alleging that the petitioner had received a sum of Rs.2,50,000/- from the defacto complainant refused to return it and again demanded Rs.50,000/- in a threatening manner and continued to harass her later. Based on the earlier compliant enquiry was conducted in CSR No.414 of 2020 and thereafter further action was dropped. Strangely few days later, a fresh complaint has been given at the W-2, All Women Police Station, with exaggerated facts. She would submit that even reading of the complaint would show that there was no inducement or false assurance or promise on the part of the petitioner to marry the defacto complainant and that nothing has been stated as if, the defacto complainant had sexual intercourse with the petitioner on the false promise or assurance. Further, in the complaint it is alleged that the defacto complainant used to stay with the petitioner and visited various places. It is a case of consensual relationship and no offence under Section 376 IPC is made out against the petitioner. She would further submit that the petitioner is prepared to appear before the respondent and co-operate with the investigation. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the defacto complainant got acquaintance with the petitioner through a what's app group named "dog rescue" during which time, the petitioner had taken money from the defacto complainant and on the false promise of marrying her, had sexual intercourse with her on several occasions. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the intervenor would vehemently oppose that the petitioner taking advantage of the innocence of the defacto complainant, induced her and on the false promise of marrying her and had sexual intercourse with her on several occasions. Thereafter, the petitioner had abused the defacto complainant verbally, emotionally and also assassinated her character.

6. At this juncture, the learned counsel for the petitioner would submit that earlier a complaint was given against the petitioner on 28.05.2020, before E-1, Mylapore (Law and Order) in respect of a financial dispute and enquiry was conducted and closed and thereafter, within few days, an exaggerated complaint has been given against the petitioner before the present respondent and even in the second complaint, no specific allegations have been made with regard to the offence under Section 376 IPC.

7. Heard the learned counsels and perused the FIR and other materials placed on record.

8. Taking into consideration the facts and submissions of the learned Counsels, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

9. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of (15) fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Metropolitan Magistrate, Egmore, 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 every day 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 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]**.

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

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

-sd/-
07/08/2020

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 METROPOLITAN MAGISTRATE COURT,
EGMORE.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MYLAPORE, CHENNAI.

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

CRL OP.11144/2020

Date :07/08/2020

TA-21/09/2020

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