

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.12248 of 2020

M. Thunaivansamy

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Ulundurpet,
Villupuram District.
Crime No.7 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 arrest in Connection with the Crime No.7 of 2020 pending on the file of the respondent police.

For Petitioner : Mr. B. Mahendra Naidu

For Respondent : Mr. K. Prabakar,
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 313, 417, 376, 294(b) and 506(1) of IPC in Crime No.7 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Kannaga is that she was in love with the petitioner from the year 2011 and they had sexual intercourse due to which, the defacto complainant became pregnant and thereafter on the insistence of the petitioner, she aborted her pregnancy. Thereafter, she got married with one Vetrivel on 27.08.2015 and thereafter, due to the difference of opinion, she got separated from him and she started to continue the love affair with the petitioner and that she got pregnant again. Thereafter, the defacto complainant asked the petitioner to marry her, but he refused the same. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is innocent and that the case of consensual affair has been falsely projected as a case of rape. He would further submit that the petitioner and the defacto complainant were in love in the year 2011 and thereafter she married one Vetrivel and was living him and after sometime, due to misunderstanding between them, she got separated from her husband. Meanwhile, the petitioner had also got married. The defacto complainant knowing very well that the petitioner is a married man and without even getting divorce from her earlier marriage continued to have love affair with the petitioner and now a false compliant has been given against him as if, the petitioner committed rape on her. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner had separated from the defacto complainant who is a married lady and got separated from her husband and was living in the same village and he induced her and had sexual intercourse with her and when the defacto complainant asked to marry her, the petitioner told her to get divorce from her husband. Thereafter, she got divorce from her husband on 03.01.2019, then, once again she asked the petitioner to marry her, but he refused the same. He would further submit that there is no previous case pending against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. Heard both sides and perused the First Information Report.

6. 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;

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.II, Ulundurpet, Villupuram District, 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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/-

14/08/2020

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 JUDICIAL MAGISTRATE,
NO.II, ULUNDURPET,
VILLUPURAM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ULUNDURPETTAI
VILLUPURAM DISTRICT.

CC to M/S. B.MAHENDRA NAIDU Advocate on payment of necessary charges

CRL OP.12248/2020

Date :14/08/2020