

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

CrI.O.P.No.11620 of 2020

Devaiyani @ Deivanai  
W/o. Ganesan.

... Petitioner

Vs.

State represented by  
The Inspector of Police,  
Thirupathur Town Police Station,  
Vellore District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of her arrest in Cr. No.1360 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under sections 386 of IPC read with Sections 3 & 4 of Tamil Nadu Prohibition of charging Exorbitant Interest Act 2003 read with Section 294 (b), 506(ii) IPC in Crime No.1360 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 her husband had borrowed a sum of Rs.70,000/- from the petitioner and others persons and he was regularly paying the interest to the petitioner. Thereafter, due to Corona pandemic situation, he was unable to repay the amount and one Vasanthi/A1, had came to her house and insisted her husband to pay the principal as well as interest and abused in filthy language and also threatened him in the presence of others. Following which, the petitioner and others have abused the victim in filthy language and threatened him to repay the amount with exorbitant interest. Due to this harassment, the defacto complainant's husband consumed acid and was admitted in the hospital. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is arrayed as A2. Except the defacto complainant's allegation that her husband had borrowed money from the petitioner, there is no specific overt-act against the petitioner and the entire allegations are only against A1/Vasanthi who is stated to have threatened the husband of the defacto complainant due to which, the victim attempted to commit suicide. He would further submit that even as per the averments in the FIR, the petitioner is stated to have given a loan amount of Rs.70,000/- and without prejudice to his defence, he admitted that the petitioner will not make any claim with reference to the amount stated to have been given to the defacto complainant's husband. He would further submit that the co-accused have been granted anticipatory bail by this Court in Crl.O.P.No.10843 of 2020 and Crl.O.P.No.10776 of 2016 dated 22.07.2020 and 23.07.2020 respectively. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the victim had borrowed money from several persons. On 28.06.2020, the persons who had given money to the defacto complainant's husband, abused and threatened him through mobile phone. Unable to bear the same, the defacto complainant's husband consumed acid and was admitted in hospital. He would further submit that the victim has been discharged from the hospital. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that the victim has been discharged from the hospital and the co-accused have been granted bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.II, Thirupathur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, 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 daily at 10.30 a.m. for a period of two weeks and thereafter as and when required.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

04/08/2020

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, THIRUPPATHUR

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
THIRUPATHUR TOWN POLICE STATION,  
VELLORE DISTRICT

CC to M/S E.KANNADASAN Advocate on payment of necessary charges

CRL OP.11620/2020

Date :04/08/2020

RD 01/09/2020