

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2020

CORAM :

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

Crl.O.P.No.12456 of 2020

Sivanesan S/o.Selvaraj

... Petitioner

Vs.

The State Rep. By
Inspector of Police
All Women Police Station
Kangayam, Tirupur District
(Crime No.06 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.06 of 2020 on the file of the Inspector of Police, All Women Police Station Kangayam, Tirupur District.

For Petitioner : Mr.K.T.S.Sivakumar

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.06.2020 for the offences punishable under Sections 294 (b), 376, 312, 313, 498(A) and 506(ii) IPC in Crime No.06 of 2020, seeks bail.

2. The case, as per the defacto complainant Vanisri is that the petitioner induced here on the false promise of marriage and had sexual intercourse with her and thereafter, he told her that he will get concurrence of his parents and marry her. In the meanwhile, she got pregnant and the petitioner terminated her pregnancy. Thereafter, when the defacto complainant had compelled A1 to marry her, the parents of the petitioner threatened and assaulted her by saying only if she gives dowry, they will allow their son to get married to the defacto complainant.

3.The learned counsel appearing for the petitioner would submit that a false complaint has been given by the defacto complainant and she has given contradictory statements and at one point of time she had said that the petitioner had married the defacto complainant and

another point of time, she had said that on the false promise, he had sexual intercourse with her and later aborted her pregnancy. He would further submit that due to misunderstanding between them, they got separated and on 08.06.2020 the petitioner has filed a Petition in filing No.273 of 2020 for divorce and only after filing of the petition for divorce, the defacto complainant has given the present false complaint on 18.06.2020 and based on the said complaint, the petitioner was arrested on 19.06.2020.

4. The learned Government Advocate (Crl. Side) would submit that on the promise of marrying the defacto complainant, the petitioner had sexual intercourse with the defacto complainant, due to which she became pregnant and the petitioner took her to a doctor and caused abortion and the parents of the petitioner threatened and assaulted the defacto complainant and demanded dowry from the defacto complainant.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) and perused the FIR.

6. Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner from 19.06.2020, 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 condition to execute 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, out of which, one surety should be a blood surety, before the learned Judicial Magistrate, Kangayam, within a period of two weeks after lifting of 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 on his release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, on every Monday 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 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];

(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/-

21/08/2020

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,
KANGAYAM

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (AWPS),
KANGAYAM, TIRUPPUR DISTRICT,

CC to M/S. K.T.S.SIVAKUMAR Advocate on payment of necessary charges

WEB COPY

CRL OP.12456/2020

Date :21/08/2020

RD 04/09/2020