

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2020

CORAM :

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

CrI.O.P.No.12264 of 2020

R.Sibiraj

... Petitioner

Vs.

The State of Tamil Nadu
Rep. By its Inspector of Police
All Women Police Station
Bhavani, Erode District.
(Crime No.18 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest concerned in Crime No.18 of 2020 on the file of respondent herein.

For Petitioner : Mr.P.Raja

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence punishable under **Sections 417, 328, 376(1), r/w 90 of IPC, in Crime No.18 of 2020** on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Kanimozhi is that the petitioner got acquainted with her during a marriage proposal and that they came to know each other and that on 16.08.2019, the petitioner had called her over phone and taken her to his house and had offered a juice laced with sedative and without her knowledge, he had committed rape on her and thereafter refused to marry her. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that originally the marriage proposal was fixed between the defacto complainant and the petitioner and while the marriage proposal talks were going on, on 13.03.2020, the defacto complainant had sent a whatsapp message in which, there was a conversation between the defacto complainant and one Gim with regard to them getting married and further on verification, the petitioner also came to know that the defacto complainant had several other friends and thereby, the marriage proposal was dropped. Thereafter, on 08.07.2020,

the defacto complainant along with her relatives had come to the house of the petitioner and created ruckus in respect of which, the petitioner had given a complaint to Deputy Inspector General of Police, West Zone, Coimbatore, on 20.07.2020. On coming to know that the petitioner had given a complaint, the present complaint has been given against the petitioner on 21.07.2020 alleging that the petitioner committed rape on the defacto complainant. He would submit that there are whatsapp conversations between the petitioner and the defacto complainant to show that on the particular date alleged by the defacto complainant, the petitioner was in his office and on being called by the defacto complainant the petitioner had given a lift to her and dropped her in the Airport for her travel to Delhi. He would further submit that the defacto complainant is an educated person who has studied in IIM and presently working in Delhi and the allegation that the petitioner committed rape on the girl by offering juice laced with sedative is only given a counterblast to the complaint. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that while the marriage proposal between the petitioner and the defacto complainant was going on, the petitioner has taken the defacto complainant to his house and offered juice laced with sedative and committed rape on the defacto complainant when she was unconscious. He would further submit that the investigation is pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials on record and also perused the FIR.

6. Taking into consideration the facts and circumstances and the submissions of the learned counsels, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of his arrest by the respondent police or on his appearance, **within a period of fifteen days from the date of lifting of lockdown or the commencement of Court's normal functioning whichever is earlier**, before the **Judicial Magistrate-III, Erode**, 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. 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/-
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-III, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, BHAVANI,
ERODE DISTRICT

+1 CC to M/S.P.RAJA Advocate on payment of necessary
charges SR NO.5957

CRL OP.12264/2020

Date :14/08/2020