

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2020

CORAM :

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

CrI.O.P.No.12711 of 2020

A.MOHAMMED RASIK

.... Petitioner

-Vs-

State

The Inspector of Police,
W-18, All Women police station,
M.K.B Nagar, Chennai.
(Cr. No.3 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.3 of 2020 on the file of the respondent police.

For Petitioner : Mr.E.Soundarrajan

For Respondent : Mr.T.Shanmugarajeswaran,
Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested on 05.07.2020, for the offences punishable under Sections 376, 380 506(ii) of Indian Penal Code and section 67 of IT Act in Crime No.3 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Salma Begam is that the petitioner herein, on the false promise of marrying her, had sexual intercourse and committed theft of her jewelery and also threatened her with dire consequences. The further allegation is that the petitioner had threatened her that he will upload the videographs, which was taken when they were in compromising position.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and the *de facto* complainant is a married woman and that due to a financial dispute between them, a false complaint has been given against the petitioner as if the petitioner gave a false promise of marrying her and had sexual intercourse with her. The further allegation is that he threatened to upload videographs is also false. He would submit

that the petitioner was arrested on 05.07.2020 and the jewelery

has been recovered and the amount of Rs.80,000/- was also recovered from the house of the petitioner. He would submit that the major part of the investigation is over.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the *de facto* complainant is a married woman and the petitioner, who is also a married man, on the false promise of marrying the *de facto* complainant, had sexual intercourse with her and also taken away her jewels and money. He would submit that the petitioner also threatened the *de facto* complainant that he will upload the videographs taken along with her. Hence, he would object the grant of bail to the petitioner.

5. Taking into consideration of the facts and circumstances of the case, 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 executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) Thereafter, the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Additional Mahalir Court Magistrate, Egmore, within 15 days from the date of lifting of the 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 shall report before the respondent police every day at 10.30.am 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 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
19/08/2020

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 ADDITIONAL MAHALIR COURT MAGISTRATE,
EGMORE, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-18, ALL WOMEN POLICE STATION,
M.K.B. NAGAR, CHENNAI.

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

CRL OP.12711/2020

Date :19/08/2020

MK:07/09/2020