

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2020

CORAM :

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

Crl.O.P.No.12961 of 2020

Prabakaran

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by its Inspector of Police,
All Women Police Station,
Chengalpattu District,
(Crime No.9 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.9 of 2020 on the file of the respondent police.

For Petitioner : Mr.W.M.Abdul Majeed

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 22.07.2020 for the offences punishable under Sections 417, 420, 376 & 506(i) IPC, in Crime No.9 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner induced the defacto complainant on the false assurance to marry her and committed sexual intercourse with her and thereafter cheated her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that it is a case of consensual affair, which has been falsely projected as the case of cheating. He would further submit that it was true that the petitioner and the defacto complainant had relationship and the petitioner had also agreed to marry the victim girl and the proposal was also made by the petitioner to marry the victim girl and on that ground he was granted interim bail by this Court on 28.08.2020, however the family members of the victim girl have refused the marriage proposal. He would further submit that

since his sister was tested Corona positive, the petitioner did not appear before the respondent police to comply with the conditions. Earlier he was in custody for more than 36 days and the petitioner is prepared to abide by any stringent conditions that to be imposed on him.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner on the false assurance of marrying the victim girl committed sexual intercourse with her and thereafter, when she had asked him to marry, the petitioner along with his family members threatened her. He would further submit that this Court had granted interim bail to the petitioner on 28.08.2020 but the petitioner has not complied with the condition imposed by this Court. He would further submit that the investigation is over and the charge sheet has also been laid before the concerned court.

5.At this juncture, the learned counsel for the petitioner submitted that he has filed an affidavit, wherein, he had disclosed that after he was released on bail on 29.08.2020, he complied with the condition for some days and thereafter since his sister was affected with Covid-19, he was unable to appear before the respondent police and subsequent to her recovery, he is appearing before the respondent police regularly from 01.10.2020 for the past 13 days.

6.Taking into consideration of the facts and submissions made by the learned counsels, taking into consideration of the period of incarceration suffered by the petitioner and also that the petitioner had offered to marry the victim girl, and the same was refused by the family members of the victim, this Court is inclined to make the interim bail granted to the petitioner absolute subject to the following conditions:

(a) Accordingly the petitioner is directed to 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 Learned Judicial Magistrate No.II, Chengalpattu, and on further conditions that:

(b) 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;

(c) the petitioner shall report before the respondent police everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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 made absolute.

-sd/-
14/10/2020

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,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHENGALPATTU DISTRICT

+1CC to M/S.W.M.ABDULMAJEED Advocate on payment of
necessary charges SR NO.6872

CRL OP.12961/2020

Date :14/10/2020

MK:15/10/2020



WEB COPY