

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.13297 of 2020

C.Raja

... Petitioner

Vs.

The State represented by
The Inspector of police,
All Women Police Station,
Namakkal, Namakkal District.
Crime No.15 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest in Crime No.15 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Vasudevan

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

O R D E R

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences publishable under Sections 294 (b) and 506(i) of IPC and Section 12 r/w. 11 (1) of POCSO Act 2012, in Crime No.15 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution, as per the defacto complainant viz., Pooja is a minor, who is aged about 17 years, is that she is residing near the house of the petitioner and her father owned 4 ½ acres of land and the petitioner is having 4 acres of land adjacent to the land of the defacto complainant. There was a wordy quarrel between them. While so, the defacto complainant and her grand father were in the upstairs in their house and speaking with someone, the petitioner had shouted at the defacto complainant. Further allegation is that when it was questioned by the defacto complainant's grand father, the petitioner has abused him in filthy language and also threatened him. Thereafter, they had gone away and the petitioner had pulled her hair and hands and therefore she has given a complaint. Based on the complaint, a case was registered under Section 506 (i) and Section 12, 13 and 17 of POCSO Act.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. There was a land dispute and admittedly, there was a wordy quarrel between them with regard to grazing cattle. In order to wreck vengeance a false complaint has been given through the minor girl as if the petitioner shouted at her and pulled her hands. He would further submit that the petitioner is prepared to abide by stringent conditions that may be imposed on him. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainant's parents are adjacent land owners and there was a wordy quarrel between them due to grazing cattle. Further allegation, as per the FIR, is that on 03.08.2020, the petitioner had abused the defacto complainant. He would further submit that the statement under Section 164 Cr.P.C., has been given by the victim girl. He would further submit that she had stated that the petitioner harassed her and threatened her parents and he has also pulled her hands when the defacto complainant was speaking with someone and abused in filthy language and threatened her. Therefore, he opposed for grant of bail to the petitioner.

5. Heard both sides.

6. On perusal of the FIR and materials available on record and the statement of the victim girl recorded under Section 164 Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Mahila Court, Namakkal on condition that the petitioner shall execute a separate 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 Attur salem Town Police Station every day 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 is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate 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.

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

-sd/-
01/10/2020

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 MAHILA COURT,
NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
ALL WOMEN POLICE STATION,
NAMAKKAL, NAMAKKAL DISTRICT.

CC to M/S. B.VASUDEVAN Advocate on payment of necessary charges

CRL OP.13297/2020

Date :01/10/2020

MK:20/10/2020