

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2020

CORAM :

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

Crl.O.P.No.13752 of 2020

K.Sambathkumar

... Petitioner

Vs.

State Rep. By its Inspector of Police
AWPS, Thudiyalur,
Coimbatore District.
(In the Cr.No.16 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.16 of 2020 on the file of the respondent police.

For Petitioner : Mr.Deepan Uday

For Respondent : Mr.T.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 01.08.2020 for the offence punishable under **Sections 417, 376, 352 and 294(b) of Indian Penal code 1860**, in Crime No.16 of 2020 seeks bail.

2. The case of the prosecution as per the defacto complainant Yazhini who is aged about 26 years is that the petitioner on the false promise of marriage, committed sexual intercourse with her and thereafter, cheated her. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the very reading of the F.I.R. would go to show that a consensual affair between the parties, has been falsely projected as a case of rape and cheating. He would submit that the petitioner and the defacto complainant became friends through social media and thereafter, they had sexual affair. At no point of time, the petitioner had made any promise to the defacto complainant that he would marry her. However, on a particular day, they stayed on the night without

the knowledge of the parents and when it came to the knowledge of the parents, a false case has been given to protect her image. He would submit that the petitioner has been suffering incarceration from 01.08.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner and the defacto complainant are Engineers. The petitioner on the promise of marrying the defacto complainant, committed sexual intercourse with her and thereafter, cheated her. He would submit that the medical examination in respect of the victim and the potency test in respect of the petitioner has been completed.

5. Heard both sides and perused F.I.R.

6. Taking into consideration the facts and circumstances and the submissions made by the learned counsels and the fact that medical examination on the victim girl as well as on the petitioner has been completed and considering the period of incarceration undergone by the petitioner from 01.08.2020, 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**, before the learned Additional Mahila Judge, Coimbatore, **within a period of two weeks from the date of commencement of the Court's normal functioning**, 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 daily 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/-
11/09/2020

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 MAHILA JUDGE,
COIMBATORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
AWPS, THUDIYALUR,
COIMBATORE DISTRICT.

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

CRL OP.13752/2020

Date : 11/09/2020

GKS:16/09/2020