

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.13854 of 2020

Manjunathan
S/o.Elumalai

... Petitioner/Accused 1

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Tiruvannamalai.

(Crime No. 17 of 2020)

...Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.,
to enlarge the petitioner on bail pending investigation in Crime
No.17 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.M.Mohamed Riyaz,

Additional Public Prosecutor

For Intervenor : Mr.B.Jawahar

ORDER

(This case has been heard through video conference)

The petitioner, who was arrested and remanded to the Judicial custody on 15.08.2020, for the offences punishable under Sections 294 (b), 417, 376 of IPC, in Crime No. 17 of 2020, on the file of the respondent police seeks bail.

2. The case of the prosecution as per the defacto complainant Vidya is that she is aged about 29 years and that the petitioner/1st accused is her cousin and that on the false promise of marrying her, the petitioner had sexual intercourse with her for the past seven years and later, she became pregnant and on the request of the petitioner, the defacto complainant aborted her pregnancy and continued with the relationship for and later, the petitioner refused to marry her. When she had insisted for the marriage, the

other accused had abused her and intimidated her. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that it is the consensual affair and it has been falsely projected as a case of false promise to marry and rape. He would also submit that the petitioner and the defacto complainant are cousins, the defacto complainant is elder to him and her father passed away seven years ago and they developed relationship. He would submit that even as per the complaint, the 1st petitioner refused to marry her since the family members of both sides did not agree for their marriage stating that the defacto complainant is elder to the petitioner. Thereafter, based on the complaint given by the defacto complainant with false allegations, the respondent registered the case against the petitioner and his family members. The relatives who have no role are unnecessarily implicated in this case. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the defacto complainant are close relatives and on the false promise of marrying her, the petitioner had sexual intercourse with her for the past 7 years and later, she became pregnant and on the direction of the 1st accused, she was made to abort the pregnancy and later, the 1st accused refused to marry her. He would also submit that major part of the investigation is completed and the medical examination in respect of the petitioner as well as the victim has also been completed and the statement under Section 164 Cr.P.C. has been recorded from the victim.

5. The learned counsel appearing for the Intervenor vehemently opposed to grant bail stating that the petitioner is the cousin of the defacto complainant, on the false promise of marrying her, the petitioner had sexual intercourse on several occasions, due to which, she got pregnant and aborted her pregnancy and thereafter, he refused to marry the defacto complainant.

6. Heard the counsels. Perused the FIR and the statement of the victim.

7. Taking into consideration of the facts and submissions made by the learned counsel and also considering the fact that the petitioner is in jail from 15.08.2020, 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 executing 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, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the Fast Track, Mahila Court, Tiruvannamalai, within 15 days from the date of the 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 respondent police everyday 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 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.

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

-sd/-
15/09/2020
सत्यमेव जयते

This order, on being produced, be punctually observed and carried into execution by all concerned

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TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE FAST TRACK MAHILA COURT
TIRUVANNAMALAI

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE SUPERINTENDENT,
SUB-JAIL, POLUR

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

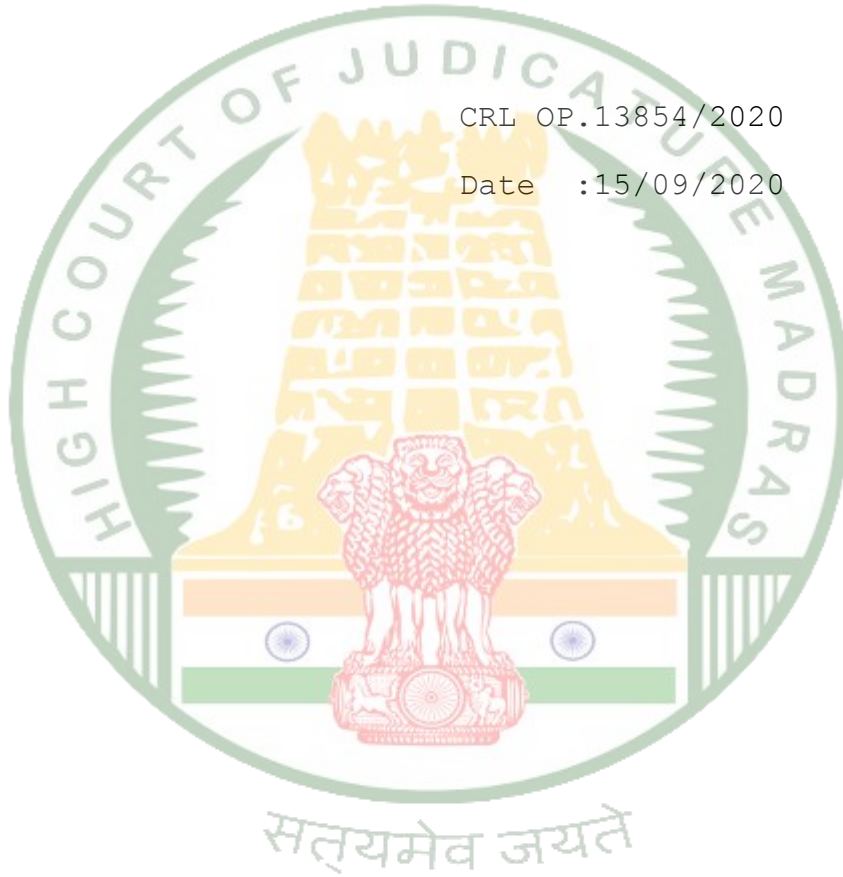
4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI

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

RD 16/09/2020

CRL OP.13854/2020

Date :15/09/2020



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