

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14181 of 2020

Sarasu @ Saraswathi

... Petitioner

Vs.

State Represented by
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
Cr. No.2025 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 her arrest in connection with Crime No.2025 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Prabudoss

For Respondent : Mr.T.Shanmugarajeswaran
Govt. Advocate (Crl. side)

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 394 & 397 of IPC in Crime No.2025 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant/Tamizharasan is that on 28.08.2020, wife of Arivu one Saraswathi had called him over phone saying that there was fight between her and her husband and she was in Murugesan hospital and she had asked him to buy dinner for her. He had gone there and handed over dinner to Sarasu@Saraswathi, when he had returned Arivu Al husband of Sarasu@Saraswathi and yet another persons waylaid him and threatened to kill him and taken away his jewels and mobile phone and Rs.4000/-cash. Thereafter on the instigation of Saraswathi, the other accused have assaulted him with knife.

3. The learned counsel for the petitioner would submit that the petitioner and the defacto complainant are known to each other and due to enmity a false complaint was given. A very reading of the First Information Report would show that it is a

false complaint. Based on the false complaint, the husband of the petitioner/A1 has been arrested and he has been detained under Act 14. He would submit that only to implicate the petitioner's husband and detain him, a false complaint has been given. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) would submit that the petitioner is the wife of one Arivu, they are known to the defacto complainant. On 28.08.2020, the petitioner had called the defacto complainant to come and give dinner at Murugesan hospital, when he had gone there, the petitioner and her husband and her relative have assaulted the defacto complainant and robbed his jewels, cell phone and cash, he would submit that the petitioner and her husband have been convicted for life and now under suspension of sentence. However, he opposed for grant of anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that only to keep the petitioner's husband in prison a false complaint has been given and the defacto complainant and his family members have achieved that.

6. Heard both sides and perused the First Information Report.

7. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

[a] Accordingly, the petitioner is directed to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date on which order copy made ready, before the learned Judicial Magistrate-I, Kallakurichi, on condition that the petitioner shall 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 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:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30a.m., until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
17/09/2020

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 JUDICIAL MAGISTRATE-I,
KALLAKURUCHI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
KALLAKURUCHI POLICE STATION,
KALLAKURUCHI DISTRICT.

+1 CC to M/S. R.PRABUDOSS Advocate on payment of necessary charges SR.NO.6320

CRL OP.14181/2020

Date :17/09/2020

GKS:23/09/2020