

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2020

CORAM :

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

Crl.O.P.No.14273 of 2020

Pradheep

... Petitioner

/versus/

State represented by
The Inspector of Police,
All Women Police Station
Cuddalore District,
(Crime No.16 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.16 of 2020 pending investigation on the file of Respondent Police.

For Petitioner : Mr.D.Padmanaban

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

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 417, 376, 294 (b), 506 (i) of IPC in Crime No.16 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution, as per the de-facto complainant viz., Chellammal, is that she had married with one John Pandian during the year 2013 and she has got a three year old child. Thereafter, during the year 2018 while she was studying M.Sc., the accused, who is her college mate on the promise of marrying her, had sexual intercourse with her. Suspecting her fidelity, her husband had taken steps to file a divorce petition before the Cuddalore Court. Knowing that on the promise to marry her, the accused had sexual intercourse with her. Hence, the complaint.

3. The learned counsel for the petitioner would submit that a reading of the FIR would itself clearly shows that it is a case of consensual affair, which has been falsely projected as a case of cheating and rape. He further submitted that the defacto complainant is already a married woman and she has got a 3 year old child and the marriage was not dissolved. Though it is a prohibited relationship, it is consensual in nature. The defacto complainant, in order to extract money from the petitioner, has preferred the false complaint.

4. The learned Additional Public Prosecutor would submit that the petitioner had given a false promise to marry her and had sexual intercourse with the defacto complainant and later cheated her .

5. Taking into consideration the facts and circumstances of the case and also the submission made by both the counsel and the perusal of the FIR and also the relevant materials filed by the accused, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned **Additional Mahila Court, Cuddalore** 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:

[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 respondent Police 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/ 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]**.

[f] 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/-

14/09/2020

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 COURT,
CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CUDDALORE

+1 CC to M/S. D.PADMANABHAN Advocate on payment of necessary charges SR.NO.6271

CRL OP.14273/2020

Date :14/09/2020

GKS:21/09/2020

WEB COPY