

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.Nos.15526 and 15534 of 2020

and Cr1.M.P.Nos.6402 and 6403 of 2020

P.Magesh Kumar ... Petitioner in both petitions

Vs.

The Inspector of Police ...Respondent

N-1, Royapuram Police Station

Chennai.

Crime Nos.3944 and 3412 of 2020.

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime Nos.3944 and 3412 of 2020 pending on the file of the respondent police.

For both petitions;

For Petitioner : Mr.C.Kanagaraju

For Intervenor : Mr.S.Sarathchandran (NA):

For Respondent : Mr.M.Mohamed Riyaz,

Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

In Cr1.O.P.No.15526 of 2020, the petitioner who apprehends arrest at the hands of the respondent police for the alleged offences punishable under **Sections 294(b), 448, 506(i)** in Crime No.3944 of 2020, on the file of the respondent police, seeks anticipatory bail.

In CrI.O.P.No.15534 of 2020, the petitioner who apprehends arrest at the hands of the respondent police for the alleged offences punishable under **Sections 354(A), 354(b), 420 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2020,** in Crime No.3412 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. In Crime No.3412 of 2020 : The case of the prosecution as per the defacto complainant Mahalakshmi W/o. Roop Chandar is that that the wife of the petitioner namely Suganthi was her classmate and due to the acquaintance they became family friends. While so, they have arranged for foreign trip and that the defacto complainant had gone to the house of the petitioner to get the tickets from them. At that time, the petitioner's wife was not at home and the petitioner gave a glass of cool drink. After drinking the same, she became unconscious. When she did not know what had happened there, she left to her home. After some time, she received obscene photos of her in her mobile phone which was sent by the petitioner/accused. Thereafter, the petitioner had threatened her saying that he will upload the photos in the social media and by threatening her, had intercourse with her and also received jewels and cash from her. Unable to bear the torture, the defacto complainant attempted to commit suicide and thereafter, the defacto complainant gave the complaint to take action against the petitioner for harassing her by threatening her to upload the obscene photos in the social media.

2.1 Crime No.3412 of 2020 : The case of the prosecution is that earlier, on the complaint given by the defacto complainant Rup Chandar before the All Women Police Station, the accused was arrested and remanded to judicial custody and he had come out on bail. While so, on 19.08.2020, the accused along with three other person, entered into his house, abused him in filthy language and threatened to return the money and also assaulted him. Thereby, the defacto complainant had gone to the upstairs of his house and lodged complaint to the Control Room.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given by the said Mahalakshmi and her husband to avoid payment of money to the petitioner. He would submit that the defacto complainant/Mahalakshmi in Crime No.3412 of 2020 and the wife of the petitioner Suganthi are friends and that the defacto complainant and her husband had induced the petitioner and his wife and had borrowed a sum of Rs.40 lakhs for purchasing house. Later, they refused to return the money and when the petitioner and his wife had demanded money, they have given a false complainant in order to preempt the petitioner from taking any action against them to recover the money. He would further submit in fact, only on the instruction of the said Rup Chandar, the petitioner had gone to his house whereas, the said Mahalakshmi along with her husband / Rup Chandar, had threatened him with goondas and sent him out. In respect of the same, the wife of the petitioner has given a complaint on 08.08.2020. He would further submit that the petitioner and the defacto complainants are known to

each other and due to the intervention of the wellwishers of both the parties, the matter has been compromised. Pursuant to which, on 02.11.2020 an agreement has been effected between the wife of the petitioner and the defacto complainants wherein they have agreed to return an amount of Rs.30 lakhs and also agreed to withdraw the complaints and that he has filed necessary application before this Court to quash the complaints.

4. The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainants are known to each other since, the defacto complainant Mahalakshmi and the petitioner's wife are friends. Taking advantage of the friendship, the petitioner had abused the defacto complainant Mahalakshmi and had taken abusive photos of her and by threatening to upload them in the social media, he had sexually assaulted her due to which, she attempted to commit suicide. He would further submit that on the earlier occasion the intervenor was represented by one Sarath Chandran and today, learned Counsel for the intervenor is not present.

5. The learned Counsel for the petitioner has furnished the xerox copy of the alleged agreement entered into between the petitioner's wife and the defacto complainants in both the complaints.

6. Taking into consideration, the above facts and circumstances of the case and the submissions made by the learned Counsels and also taking note of the statement that compromise has been arrived between the parties, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy is made ready, before **the XV Metropolitan Magistrate, George Town, Chennai**, 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 everyday at 10.30 a.m. for a period of one week and thereafter, shall report before the respondent police as and when required for interrogation.

[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, these Criminal Original Petitions is ordered. Consequently, connected Miscellaneous petitions are closed.

-sd/-
20/11/2020

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 METROPOLITAN MAGISTRATE,
NO.XV, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
N-1, ROYAPURAM POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

Cr1.O.P.Nos.15526 and 15534 of 2020

and

Cr1.M.P.Nos.6402 and 6403 of 2020

Date :20/11/2020