

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.15433 of 2020

Naina Mohammed

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai 600 045.
(F.I.R Cr.No.21 of 2019)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.21 of 2019 pending on the file of the respondent police.

For Petitioner : Mr.S. R. Prabhakaran

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 417 and 420 of IPC, in Crime No.21 of 2019, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioner is a graduate and he was working with the defacto complainant in DLF-AHS for the past 2.5 years and they fell in love with each other 10 months ago and the petitioner had taken her to his house and had sexual relationship with her twice and later refused to marry her. Thereafter, the defacto complainant informed the incident to the petitioner's mother, who in turn replied that the petitioner and the defacto complainant belong to two different communities, they cannot accept the marriage proposal of the defacto complainant and that she intends sending her son abroad. It was further alleged that since her conscience did not accept to marry anybody else, the defacto complainant has given the complaint.

3. The learned counsel for the petitioner would submit that the petitioner and the defacto complainant are colleagues. Even as per the complaint, there was no inducement and it was only a consensual relationship between them. The defacto complainant has completed MSC and the petitioner has completed BSC Viscom and that both of them know the consequence of having consensual relationship. He would further submit that only after the physical relationship, the defacto complainant is alleged to have asked the petitioner to marry her and there is absolutely no averment that the petitioner induced the defacto complainant before having physical affair. Further, admittedly the defacto complainant is said to have approached the mother of the petitioner and it is the mother of the petitioner who had informed that since both of them belong to different communities, it may not be possible for arranging marriage. Hence, he seeks for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainant are colleagues in a Software company. The defacto complainant had completed MSC and the petitioner had completed BSC Viscom and both of them were colleagues for the past 2½ years and that there was a love affair between them for 10 months. He would submit that on the assurance of marrying the defacto complainant, the petitioner had physical affair with her. Hence, he vehemently opposed for grant of anticipatory bail.

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

6. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the order copy is made ready, before the First Judicial Magistrate Court, Tambaram, 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 daily 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 petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

12/10/2020

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 FIRST JUDICIAL MAGISTRATE
COURT, TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-35 ALL WOMEN POLICE STATION,
TAMBARAM, CHENNAI-600 045.

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

CRL OP.15433/2020

Date :12/10/2020

RVR 03/11/2020