

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15976 of 2020

1. Kavikumar
2. Abikumar

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
AWPS Ambattur,
Ambattur, Chennai.
(Cr.No.10 of 2020) 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.10 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.R.C.Paul Kanagaraaj

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 506 (i) of IPC, in Crime No.10 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Suganya is that there was a relationship between her and A1 during the year 2014 and she had love affair with him and they had also physical relationship, on the assurance given by the A1 that he would marry her. Thereafter, the defacto complainant had conceived and upon the instruction given by A1, she had aborted her pregnancy. When she requested A1 to marry her, the second accused who is the brother of A1 had abused her in filthy language and also intimidated her. Hence, the complaint.

3. The learned counsel for the petitioners would submit that this is the third petition for Anticipatory Bail. Earlier petition filed by the petitioners in Crl.O.P.No.12472 of 2020 was dismissed by this Court vide order dated 18.08.2020. At that time, the counsel for the petitioners was not aware of the earlier petition in Crl.O.P.No.12246 of 2020 which was dismissed as withdrawn on 14.08.2020 and thereby this Court had dismissed the Crl.O.P.No.12472 of 2020 directing the petitioners to pay a sum of Rs.5,000/- to the Chief Justice Relief Fund and the petitioners have also paid the same. He would further submit that even as per the allegations in the complaint, there was a relationship between A1 and the defacto complainant during the year 2014 and the defacto complainant got pregnant and she aborted the pregnancy. Thereafter, there was no relationship between the defacto complainant and first accused and the first accused got married to another women during the Month of January 2020. Subsequently, the defacto complainant came to know that the first petitioner got married and therefore, she created problem in the family and also abused the mother and sister of the petitioners. By way of retaliation, the second petitioner had spoken to the defacto complainant over phone and during the telephonic conversation, they have not harassed the defacto complainant. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the first accused in this case, on a false promise to marry the defacto complainant had sexual intercourse with her and thereafter, upon his instruction, she aborted the pregnancy and thereafter the first accused married another woman and cheated the defacto complainant. He would further submit that the second accused who is the brother of the first accused had threatened and abused the defacto complainant. Hence, he vehemently opposed the grant of anticipatory bail to the petitioners.

5. 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;

6. 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 copy of the order is made ready, before **the Judicial Magistrate, Ambattur**, on condition that each of the petitioner shall execute a separate 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 petitioners 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 petitioners shall report before the respondent Police daily at 10.30 a.m., until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners 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/-

05/11/2020

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 JUDICIAL MAGISTRATE,
AMBATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

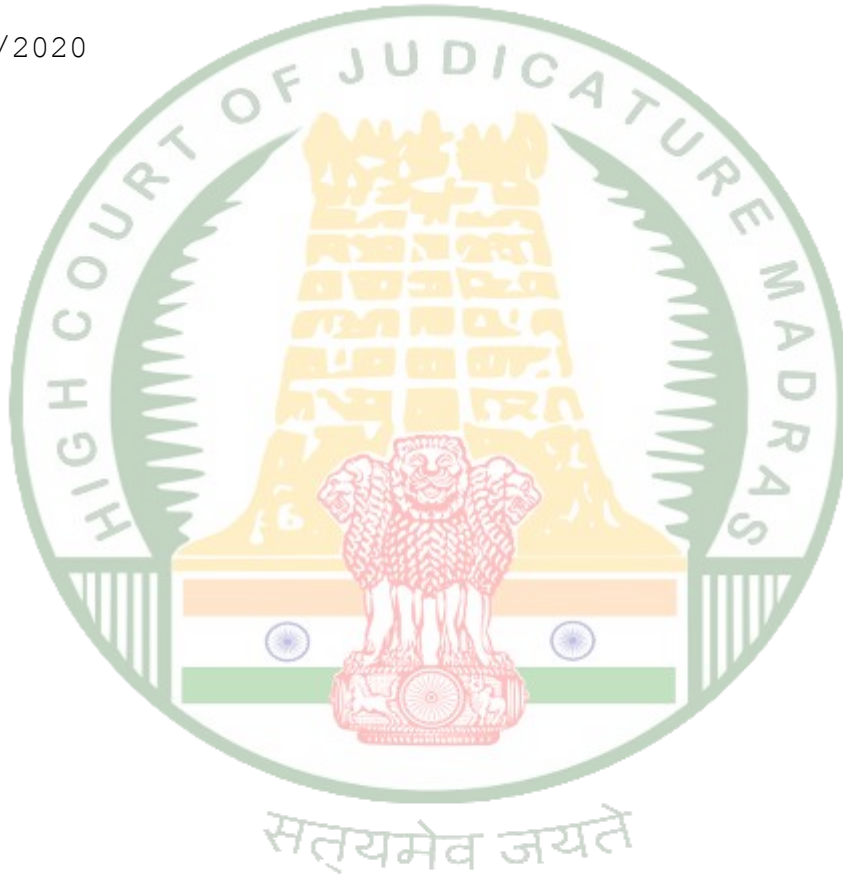
4 THE INSPECTOR OF POLICE,
AWPS AMBATTUR,
AMBATTUR, CHENNAI.

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

CRL OP.15976/2020

Date :05/11/2020

TA-MN-23/11/2020



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