

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17074 of 2020

Maheswari

... Petitioner/2nd Accused

Vs.

State: Inspector of Police, ... Respondent/Complainant
All Women Police Station,
Harur, Dharmapuri District.
[Crime No. 5 of 2020]

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.05 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.K.N.Ganeshan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 5(1)(n), 6 of POCSO Act, 2012 and later the section of law altered as 5(1)(n) r/w 6, 5 (a)(i), 5(a)(ii), 5(a)(iii), 9(a)(iii), 10 of POCSO Act, in Crime No.05 of 2020, on the file of the respondent, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant one xxx aged about 16 years, daughter of Moorthi is that the petitioner on the false promise of marrying her, had committed penetrative sexual assault on her and later he refused to marry her and he intended to marry some other lady. Hence the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and that the victim is none other than the grand-daughter of the

petitioner. He would submit that admittedly the son of the petitioner had love affair with the victim girl and thereafter on the presumption that the marriage of the first accused was arranged with some other girl, the victim girl has given a false complaint. He would further submit that the first accused is a Post Graduate, completed his degree in MSW and he is presently working as Grade-I Police Constable in Police Department. He would submit that based on the undertaking given by the first accused that he would marry the victim girl when the victim girl attains majority, this Court had granted bail in CrI.O.P.No.12154 of 2020, dated 13.08.2020 to the first accused and this Court had also granted anticipatory bail to the co-accused in CrI.O.P.NO.9526 of 2020, dated 29.06.2020. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the mother of the first accused and that on the promise of marrying the minor victim girl, the first accused had committed penetrative sexual assaulted on her and later he had refused to marry her. He would further submit that subsequently on the undertaking given by the first accused that he would marry victim girl when she attains majority, this Court had granted bail to the petitioner in CrI.O.P.No.12154 of 2020, dated 13.08.2020. However, he opposed to grant anticipatory bail to the petitioner.

5 Taking into consideration of the facts and circumstances, submissions made by the learned counsels, 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 her arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Fast Track Mahila Judge, Dharmapuri, Dharmapuri District, on condition that 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 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., for a period of two weeks and thereafter every Monday 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
02/11/2020

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 FAST TRACK MAHILA JUDGE,
DHARMAPURI, DHARMAPURI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
HARUR, DHARMAPURI DISTRICT.

CC to M/S. K.K.N.GANESHAN Advocate on payment of necessary charges

WEB COPY

CRL OP.17074/2020

Date :02/11/2020

TA-10/11/2020