

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.17012 of 2020

and Cr1.M.P.No.7073 of 2020

Dinesh Kannan

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Orleanpet Police Station,
Puducherry.
(Crime No.206 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to grant anticipatory bail to the petitioner in the event of arrest in Crime No.206 of 2020 now pending investigation on the file of the respondent police.

For Petitioner : Mr.AR.L. Sundaresan,
Senior Advocate
for Mr. A.Selvendran

For Respondent : Mr.V.Balamurugane,
Special Public Prosecutor

For Intervenor : Mr.R.S.Kirubakaran

ORDER

(This 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 354A(1)(iv) and 354 D(1)(i) of I.P.C. in Crime No.206 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Mrs.Vanjulavalli Sridhar, that she was posted as the Deputy Conservator of Forests in the segment of AGMUT cadre and she was reporting for duty as D.C.F., Karaikal in September 2019 and she was

reposted as D.C.F., Puducherry with additional charge of Karaikal since 04.09.2020. The further allegation is that the accused was posted as Conservator of Forest and Chief Wildlife Warden by order of the Ministry of Environment Forests and Climate Change vide its order F.No.46011/1/2019-IFS(AGMUT) dated 03.09.2020, The further allegation is that while she was working as D.C.F., the accused who is her superior officer, who had come to Puducherry had made sexual coloured remarks against her and also stalked her. Hence, the present complaint.

3.The learned senior counsel appearing for the petitioner would submit that the petitioner was transferred from Arunachal Pradesh on 03.09.2020 and after being relieved by Arunachal Pradesh Government, the petitioner took charge on 01.10.2020 and met the Secretary of Forest Department, Government of Puducherry on 05.10.2020 and joined duty. He would further submit that as a superior officer, he has contacted the defacto complainant. The defacto complainant had presumed that the petitioner had sexually harassed her. He would further submit that even taking into consideration of entire allegations, the allegations does not make out a case of sexual harassment and even the complainant in entirety does not state as if the petitioner had misbehaved with the defacto complainant physically. He would submit that to the shock and surprise, a complaint has been given against him as if the petitioner had made lewd remarks against the defacto complainant and tortured her. He would also submit that the petitioner has come to Puducherry on 01.10.2020 and he along with Deputy Director of Forest had visited certain areas where the government servants were residing to fix a house for him, since, till such time, he was living in a Guest house. The presumption of the defacto complainant that the petitioner has visited the area near her house is without any legal basis and most of the other allegations are based on hearsay evidence. He would further submit that based on the complaint, the petitioner has now been transferred to the Department of Environmental and Road Transport, Puducherry Government and the apprehension that he would interfere with the investigation and threaten the witnesses cannot be sustained. He would further submit that the petitioner is prepared to abide any condition imposed by this Court and he will co-operate with the investigation. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Special Public Prosecutor, Puducherry would vehemently oppose stating that the petitioner is the superior officer of the defacto complainant and he has joined the office on 01.10.2020 even before appropriate orders from the Government and from the date of joining, the petitioner had sexually harassed the defacto complainant and he has also passed lewd remarks and made suggestive remarks against the defacto complainant in the presence of the subordinate staff of the defacto complainant. Further, the petitioner had also visited the office of the defacto complainant in her absence and had removed the furnitures and the air-condition from the office of the defacto complainant without even informing her. Further, on 07.10.2020, the petitioner had arranged for a private meeting with the defacto complainant on 08.10.2020. He along

with the Deputy Director of Forest Department has gone near the house of the defacto complainant and harassed her. He would further submit that the statement of victim, has been recorded under Section 164 of CrI.P.C. and the statement of the other witnesses has also been recorded.

5. The learned counsel appearing for Intervenor would vehemently oppose stating the the defacto complainant is living alone that the accused is the superior officer of the defacto complainant and he had sexually harassed her and made lewd remarks against the defacto complainant in the presence of her subordinate staff and has entered into the cabin in her absence and removed the air conditioner and other furnitures, which were used by the defacto complainant. Further on 08.10.2020, the petitioner had stalked her by coming near the residence of the defacto complainant and he had further made sexually colourable remarks against the petitioner.

6. Heard the learned counsel appearing for the petitioner as well as the learned Special Public Prosecutor appearing for the respondent and learned counsel appearing for Intervenor and perused the materials available on record.

7. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions; Consequently, the connected Criminal Miscellaneous Petition is closed.

8. 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 of the order is made ready, before **the learned Judicial Magistrate No.II, Puducherry Union Territory**, 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 two week 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

10/12/2020

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 NO.II,
PUDUCHERRY UNION TERRITORY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY. [FOR INFORMATION]

3 THE SPECIAL PUBLIC PROSECUTOR
PUDUCHERRY.

4 THE INSPECTOR OF POLICE,
ORLEANPET POLICE STATION,
PUDUCHERRY.

+1 CC to M/S A.SELVANDRAN Advocate on payment of necessary charges SR.NO.8148

+1 CC to M/S R.S.KIRUBAKARAN, Advocate on payment of necessary charges SR.NO.8187

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Date :10/12/2020

TA-21/12/2020