

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17963 of 2020

A.Muneer Basha

... Petitioner

Vs.

State represented by, ... Respondent

The Inspector of Police,
All Women Police Station,
Guindy,
Chennai-600 015.
(Crime No.14 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. Praying to enlarge the petitioner on bail in Crime No.14 of 2020 on the file of the respondent.

For Petitioner : Mr.R.S.Mangala Kumar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.08.2020 for the alleged offences punishable under Sections 378 and 417 of IPC in Crime No.14 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Divya is that she was in love with the petitioner for the past 3½ years and that the petitioner induced her that he will marry her and on the false assurance, he had taken her on several occasions to Royal Beach Resorts situated at OMR, Chennai and had sexual intercourse with her and that she got conceived and the petitioner/accused brought tablets from Medical Shop and made her to consume the same and aborted the pregnancy and later, the *de facto* complainant came to know that the petitioner/accused married another

girl and thereby, she had preferred the complaint on 19.08.2020. The petitioner was arrested and remanded to judicial custody on the same day.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the *de facto* complainant are colleagues working in a export company and that admittedly, there was a consensual relationship between them for the past 3½ years and that the *de facto* complainant herself had stated in her complaint that on several occasions, they used to go to the Resort and stayed there and that they had sexual relationship. He would submit that the petitioner got married three months back and the *de facto* complainant, coming to know of the marriage, blackmailed the petitioner and demanded money from the petitioner, when he refused to give money, a false complaint has been preferred against him as if the petitioner cheated the *de facto* complainant. He would submit that the petitioner was arrested on 19.08.2020 and he is in custody for more than two months. He would submit that it is not the case of forceful or violent rape. It is admitted by the *de facto* complainant that she voluntarily went along with the petitioner to several places and hence, he prays for the grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner induced the *de facto* complainant and on the false promise and assurance of marrying her, had sexual intercourse with her, due to which, she got conceived and that the petitioner, without the knowledge of the *de facto* complainant, married another woman.

5. Heard the learned counsels on both sides. Perused the entire materials available on record.

6. Taking into consideration the facts and submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to 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 learned Judicial Magistrate, Alandur, Chennai, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner, on his release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

11/11/2020

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,
ALANDUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION
GUINDY, CHENNAI-15.

5 THE JAILER,
SUB JAIL, SAIDAPET, CHENNAI-15.

6 THE JAILER,
SUB JAIL, KANCHEEPURAM.

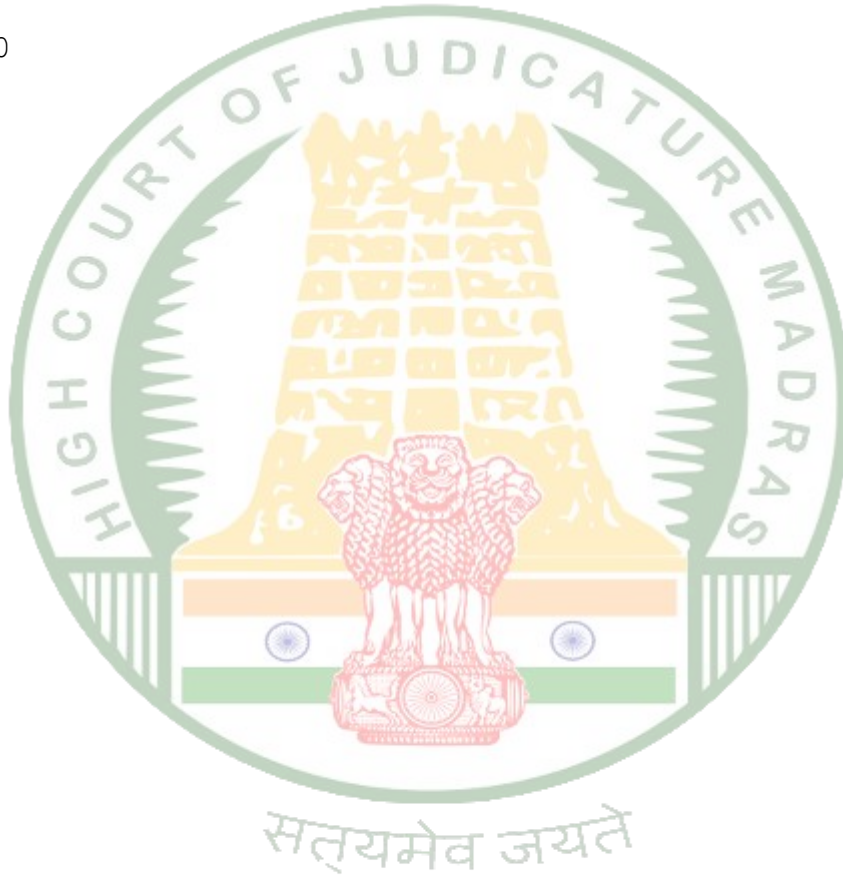
7 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

+1 CC to M/S.R.S.MANGALA KUMAR Advocate on payment of
necessary charges SR.NO.7568

CRL OP.17963/2020

Date :11/11/2020

TA-18/11/2020



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