

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.17493 of 2020

Mari @ Marimuthu

... Petitioner

Vs.

State rep.by
Inspector of Police,
All Women Police Station,
Kangeyam
Tiruppur District.
(Crime No.11 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.11 of 2020 on the file of the respondent Police

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.08.2020 for the offence punishable under Sections 376(2)(n), 417, 506(ii) of IPC, in Crime No.11 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Amal Denofer is that she has completed her B.A. and she was working as a quality controller in a company. During such time, she developed friendship with the petitioner and they were having relationship for seven years. While so, on 01.03.2020 on the assurance of marrying her, the petitioner had compelled her and had sexual intercourse with her due to which, she became pregnant. Thereafter, the accused cheated her. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. Admittedly, the petitioner and the defacto complainant are known to each other for seven years and the defacto complainant

is also aware that the petitioner is a married man and that there was a consensual relationship between them due to which, she became pregnant and it is not a case of forceful rape. He would further submit that the petitioner was arrested on 19.08.2020 i.e. on the same day of the registration of the complaint and he has been suffering incarceration for more than 75 days. He would further submit that the medical examination in respect of the petitioner and the victim girl is over and the petitioner understands that the statement of the victim girl has also been recorded under Section 164 Cr.P.C. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner on the false promise of marrying the defacto complainant, had sexual intercourse with her due to which, she became pregnant and thereafter, he has refused to marry her and thereby cheated the defacto complainant. Further, the victim girl has also suffered miscarriage and her statement has been recorded under Section 164 Cr.P.C. wherein, she has stated that the petitioner is known to her for the past 7 years and that on the false promise of marrying her, he had sexual intercourse with her due to which, she became pregnant.

5. Heard the learned Counsel on either side. Perused the F.I.R. as well as the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of 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 Judicial Magistrate, Kangeyam, 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/-
06/11/2020

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,
KANGEYAM.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB-JAIL, TIRUPPUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KANGEYAM,
TIRUPPUR DISTRICT.

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

CRL OP.17493/2020

Date :06/11/2020