

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.17447 of 2020

Senthil Pradeep

... Petitioner

Vs.

State rep.by

Inspector of Police,

All Women Police Station,

Uthukottai, Tiruvallur District.

(Crime No.10 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.10 of 2020 on the file of the respondent Police.

For Petitioner : Mr.C.Prabakaran

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 29.09.2020 for the offences punishable under Sections 328, 354(c), 376, 384 and 506(i) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 66(E) of Information Technology Act, 2000, in Crime No.10 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Swarna Priya is that she is studying Radiology in S.R.M. College, Chennai and she used to go to college through a private vehicle and that she got acquainted with the petitioner who was from the same village. The further allegation is that the petitioner had informed her that he was in love with her and assured to marry her. Believing the petitioner, the defacto complainant accompanied the petitioner and they were roaming around several places. During September 2019, the petitioner had taken her to a lodge at Madipakkam and had given a cool drink laced with sedative and while she was in intoxicated state, he had taken obscene photos of her and under the threat of uploading the same in the social media, he had sexual intercourse with her on many occasions. While so, on 09.09.2020 at about 4.30 a.m. the petitioner had compelled her and taken her to his house and locked her in a room. Thereafter, when the defacto complainant's father had contacted the petitioner, he had informed him that he has got obscene photos of her daughter and demanded to Rs.1 Crore or

else, he will uploaded the same in the social media. Further, it was alleged that the petitioner has also behaved in the same manner with the cousin of the defacto complainant/Shalini Priya and thereafter, he had taken her to a Sub Registrar Officer near Dindivanam and registered the marriage on 08.02.2019 under threat. Thereby, they lodged a complaint against the petitioner. At that time, the petitioner had informed that he will not interfere with the family of the defacto complainant. However, he continued to threatened them. Later, during the course of enquiry, the dfacto complainant came to know that the petitioner had earlier earlier married one Nivetha and had harassed her taking obscene photos of 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. He would further submit that the petitioner and the defacto complainant are from same village and they are relatives. It is true that the petitioner was earlier married to one Nivetha and the marriage was dissolved by mutual consent. The defacto complainant being his relative is aware of the fact. However, she developed friendship with the petitioner. Admittedly, as per F.I.R, they were roaming several places and that there is no necessity for the petitioner to give intoxicated substance to the defacto complainant to have physical affair with her and that the parents of the defacto complainant who were against the relationship, have influenced the defacto complainant to give a false complaint against the petitioner. He would submit that the petitioner was arrested on 29.09.2020 and no incriminating material alleged in the complaint has been recovered by the police. He would further submit that the petitioner is in custody for more than 35 days and he is prepared to abide by any stringent condition. Hence, he seeks for bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner who is known to the defacto complainant had taken her to a hotel and gave her a cool drink laced with sedative substance and when she was semi conscious, the petitioner had abused her and taken her obscene photos and videos of her private moments. Thereafter, under the threat of uploading the same in the social media, has demanded Rs.1 Crore from the father of the defacto complainant. During the course of enquiry, it came to light that the petitioner has also misbehaved with the cousin sister of the defacto complainant in the same manner and that the investigating is pending.

5. Heard the learned Counsel on either side. Perused the F.I.R. and the statement of the defacto complainant as well as her Cosine sister.

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 learned Judicial Magistrate, Uthukottai, Thiruvallur District 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 stay at Tirunelveli and report before the Town Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police.

(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,
UTHUKOTTAI, THIRUVALLUR

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UTHUKOTTAI, THIRUVALLUR DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, PONNERI.

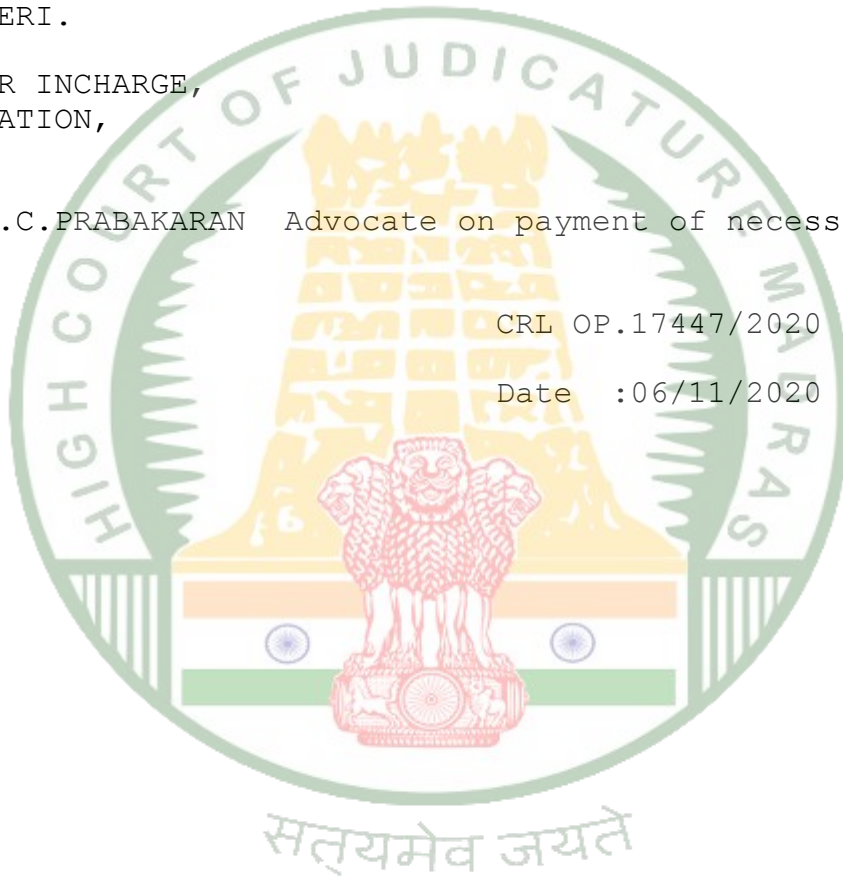
5 THE OFFICER INCHARGE,
TOWN POLICE STATION,
TIRUNELVELI

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

CRL OP.17447/2020

Date :06/11/2020

RVR 09/11/2020



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