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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.18468 of 2020

Pichaimani

... Petitioner/Sole Accused

Vs.

The State represented by,
The Inspector of Police,
M-3, Puzhal Police Station,
Thiruvallur District.
Crime No. 2709 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in connection with Crime No. 2709 of 2020, on the file of the respondent police.

For Petitioner : Mr.S.E.Venkatraman

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.09.2020 for the offence punishable under Sections 379, 376 and 506(i) of IPC, in Crime No.2709 of 2020, seeks bail.

2.The case of the prosecution is that on 15.09.2020, at about 06.30 p.m., when the defacto complainant was going to her house in her two wheeler, two unknown persons came behind her in their two wheeler and suddenly the pillion rider of the two wheeler had stolen her hand bag, which contains a sum of Rs.15,000/- and VIVO cell phone and thereafter, the accused persons have fled away from the scene of occurrence. Thereafter, on the complaint given by the defacto complainant, initially a case was registered by the Inspector of Police, Manalai Police Station, in Crime No.2347 of 2020, under Section 379 of IPC. Later, during the course of investigation, on 16.09.2020, the defacto complainant has given a re-statement before the investigation officer that on 15.09.2020 at about 7 p.m., near vegetarian village, one unknown person had threatened her, sexually assaulted her and had also stolen her hand bag. Based on the re-statement given by the defacto complainant, the offences were altered into one under Sections 379, 376 and 506(i) of IPC and the petitioner was arrested on 19.09.2020.



3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case and that the petitioner is doing transport business and he owned four lorries. He would submit that the petitioner used to park his lorries near vegetarian village and on the date of occurrence, the defacto complainant had physical relationship with one Boopalan in the lorry owned by the petitioner herein and since the same was questioned by the petitioner, the defacto complainant has lodged a false complainant before the Inspector of Police, Manali Police Station as if two unknown persons snatched her hand bag and subsequently, she had changed her statement as if she was subjected to sexual assault by one unknown person. He would further submit that in Crime No.2710 of 2020, which was registered by the respondent police for the offences under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) of IPC, the petitioner has been granted bail by this Court, in Crl.O.P.No.16229 of 2020, dated 29.10.2020. He would further submit that the petitioner was arrested on 19.09.2020 and he has been suffering incarceration more than 70 days. Hence, he prays to grant bail to the petitioner.

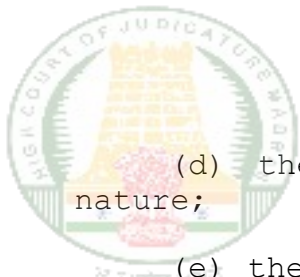
4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that while the defacto complainant was going to her house, the accused persons have snatched her hand bag, which contains a sum of Rs.15,000/- and one VIVO phone and thereafter, they have fled away from the scene of occurrence. Based on the complaint given by the defacto complainant, a case in Crime No.2709 of 2020 has been registered for the offence under Section 379 of IPC and later, during the course of investigation, the defacto complainant has given the re-statement by stating that she was subjected to sexual assault by one unknown person and thereby, the offences were altered into one under Sections 379, 376 & 506(ii) of IPC. Hence, he opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels and considering the fact that the petitioner is in judicial custody from 19.09.2020, 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, Madhavaram 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 shall report before respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Monday 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;

(h) 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];

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

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

-sd/-

30/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

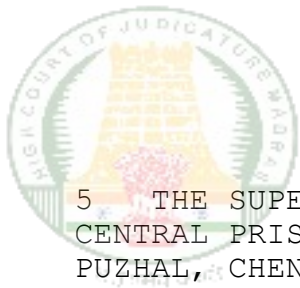
TO

1 THE JUDICIAL MAGISTRATE,
MADHAVARAM

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M-3, PUZHAL POLICE STATION,
THIRUVALUR DISTRICT.



5 THE SUPERINTENDENT,
CENTRAL PRISON-II,
PUZHAI, CHENNAI

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CC to M/S.S.E.VENKATRAMAN
charges Sr.7824

Advocate on payment of necessary

CRL OP.18468/2020

Date :30/11/2020

RVR 02/12/2020