

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.11.2020

CORAM :

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

CRL.O.P.No.17916 of 2020

Apsalmubarack

... Petitioner

Vs.

State Rep by:-

The Sub-Inspector of Police,
Pallapatty Police Station,
Salem City.

(Crime No.1248 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with the crime number in 1248 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.R.Marudhachalamurthy

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 16.10.2020 for the offences punishable under Sections 294(b), 323, 506(ii), 307 of IPC r/w 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.1248 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Thirunangai Kannagi is that she is a transgender and she had adopted a child during the year 2017 and that the child is 13 years old now. She had purchased certain properties in her name and married the petitioner and was living together with the petitioner. While so, on 11.10.2020, the petitioner who is her husband, had abused and threatened her and compelled her to transfer her properties in his name. When the defacto complainant refused to do so, the petitioner had caught hold of the adopted child of the defacto complainant and threatened to kill him with knife. The entire incident was videographed by the defacto complainant. Thereby, the petitioner broke the cell phone in which, the incident was recorded. However, the defacto complainant managed to retrieve the video and handed over the same to the respondent police.

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 submit that the petitioner is the husband of the defacto complainant and they were living together. While so, there was some matrimonial dispute between them. Thereby, a false complaint has been given against the petitioner out of matrimonial discard. He would further submit that apart from this case, there is no other case against the petitioner. He would further submit that the petitioner has been suffering incarceration from 16.10.2020. 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 is the partner of the defacto complainant. The defcato complainant had adopted a child and she had purchased some properties in her name. While so, the petitioner threatened and compelled her to transfer the properties in his name and also threatened to kill the adopted child. However, nobody was injured in the incident.

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 No-II, Salem, 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 Hosur and report before the Town 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

(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,
NO.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 SUB INSPECTOR OF POLICE,
PALLAPATTY POLICE STATION,
SALEM CITY.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE OFFICER INCHARGE,
HOSUR TOWN POLICE STATION,
HOSUR

CC to M/S R.MARUDHACHALAMURTHY Advocate on payment of necessary charges Sr.7579

WEB COPY

CRL OP.17916/2020

Date :11/11/2020

RVR 18/11/2020