

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19013 of 2020

Sekar

... Petitioner

Vs.

The State rep. by
The Inspector of Police
Orathi Police Station
Orathi
Chengalpet District
Crime No.595 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.595 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 294(b), 506(i) of IPC r/w Section 4 of TN Prohibition of Harassment of Women Act, 2002, in Crime No.595 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., Bhuvaneswari is that the petitioner/accused is her relative and the accused had been staking her and abused her name among the family members and relatives. Further, on 10.10.2020, at 10.30 a.m, the petitioner had come to the house of the de-facto complainant and harassed her and compelled her to have sexual relationship with him or else he threatened that he will kill her husband and thereby, the de-facto complainant had given a complaint on 25.10.2020

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case on account of some financial dispute between the petitioner and the de-facto complainant. He would further submit that though the incident is said to be taken place on 10.10.2020, the complaint had been given belatedly on 25.10.2020, deliberately. However, he would further submit that without prejudice to his right and defence, the petitioner has also filed an affidavit of undertaking stating that he will not contact the de-facto complainant in future. He would further submit that the petitioner may also be permitted to file necessary affidavit before the trial Court at the time of furnishing the sureties. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner, who is the relative of the de-facto complainant, on 10.10.2020 had gone to her house and invited her to have sexual contact and when the de-facto complainant refused, he threatened her and also harassed her over phone.

5. Taking into consideration the facts and circumstances of the case and also taken into account the affidavit of undertaking filed by the petitioner before this Court and also the assurance to file a copy of the sworn affidavit which has been filed before this Court, before the concerned Magistrate at the time of furnishing sureties, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Maduranthagam, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
22/12/2020

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,
MADURANTHAGAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ORATHI POLICE STATION,
ORATHI, CHENGALPET DISTRICT.

CC to M/S.K.G.SENTHILKUMAR Advocate on payment of necessary charges

CRL OP.19013/2020

Date :22/12/2020

MK:06/01/2021