

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.No.19375 of 2020

Srinivasan

... Petitioner

Vs.

State by: The Inspector of Police,
Oragadam Police Station,
Kancheepuram District.
(Crime No.1744 of 2020)

.... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.1744 of 2020 on the file of the respondent.

For Petitioner : Mr.P.Balamurugan

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 25.10.2020 for the offence punishable under Section 406, 417, 376(2)(n) of IPC, in Crime No.1744 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Kalyani, aged about 30 years is that she was working as a quality checking incharge in a private company for the past 12 years and that now she has stopped going to work. The allegation is that she became friendly with the petitioner and they were in love with each other for the past five years. While so, during September 2019, the accused had come to her house at 1.15 a.m. and telling her that they are going to marry, compelled her and had sexual intercourse with her and also informed her not to reveal the same to anybody. Thereafter, the accused frequently had sexual intercourse with her and now he is not ready to marry her and arranging for a marriage with some other woman. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the defacto complainant is a grown up adult, aged about 30 years. Even as per the complaint, the petitioner met her parents and offered to marry her but her parents have refused for the marriage stating that they belong to different community, even then, the petitioner wanted to marry her but the

defacto complainant was not ready for the marriage, hence, the parents of the petitioner have arranged for his marriage with some other woman. He would further submit that the petitioner and the defacto complainant are grown up adults and that they are aware of the consequences and admittedly there was love affair between them for more than five years. He would further submit that the petitioner was arrested on 25.10.2020 and he is custody for more than 50 days.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner and the defacto complainant are known to each other and that the petitioner on the promise of marrying her had sexual intercourse with the victim and thereafter he has arranged his marriage with some other woman. He would submit that the medical examination of the petitioner and the victim is over and the statement under Section 164 Cr.P.C. has been recorded from the victim.

5.Heard the learned Counsel on either side. Perused F.I.R. And other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner from 25.10.2020, 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, Sriperumbudur, Kanchipuram 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 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/-

17/12/2020

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,
SRIPERUMBUDUR, KANCHIPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ORAGADAM POLICE STATION,
KANCHIPURAM DISTRICT

5 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAI,
CHENNAI

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

CRL OP.19375/2020

Date : 17/12/2020

RVR 18/12/2020