

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.Nos.19746 & 19826 of 2020

ANUSIYA ... Petitioner in Crl.O.P.No.19476/2020

1.KAVITHAN
2. AYYAPPAN ... Petitioners in Crl.O.P.No.19826/2020

Vs.

The State Rep. By
Inspector of Police,
All Women Police Station,
Thiruthuraipoondi,
Thiruvarur District.
(Crime No.18 of 2020) ... Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.18 of 2020 on the file of the respondent police.

For Petitioner in
both Crl.O.Ps : Mr.Swami Subramanian

For Respondent in
both Crl.O.Ps : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 12.11.2020 for the offences punishable under Sections 420, 419, 120(B) and 509 of IPC, in Crime No.18 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de facto complainant Sudha is that her first daughter is aged about 16 years and that her neighbor one Anusiya used to borrow household articles and cell phone from her. While so, on 30.10.2020 one Marudhupandian of Trichy was found quarreling with the relatives of Anusiya and that she, later, the de facto complainant came to know that the accused Anusiya had

misused the photographs of her minor daughter and had contacted the said Marudhupandian, who was living abroad and had honey trapped him in Social Media contact and had cheated him to several lakhs of rupees and that the accused Anusiya had also impersonated by using the photographs of her minor daughter to seduce person from the opposite sex and thereby, created a bad reputе to her daughter.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that due to a enmity in the neighborhood, a false complaint has been given against the petitioners. He would further submit that even as per the FIR, the allegations are attributed only to the main acused and as far as the petitioners in Crl.OP.No.19826 of 2020, they are only the brother and husband of the first accused and there is no specific allegation against them. Hence, he prays for grant of bail.

4. The learned Government Advocate (Criminal Side) would vehemently oppose stating that the first accused is the neighbor of the de facto complainant and that she had misused the photographs of the minor daughter of the de facto complainant and thereby, impersonated and posted her photographs in social media and thereby, honey trapped one Marudhupandian, who was living abroad and thereby, made him tranfer several lakhs of rupees to her and thereafter, when he came to India, he found that the first accused had cheated him, and when he had demanded the money, the other accused had threatened him. The other accused in this case viz., A2 and A3 and A6, who are respectively the father, mother and cousin of the first accused are absconding. He would submit that the investigation is in the initial stage and that the petitioner has been arrested only on 12.11.2020.

5. At this juncture, the learned Counsel for the petitioners would submit that even taking into consideration the materials entirety, there are allegations against the first accused/petitioner in Crl.OP.No.19746/2020 and as far as the petitioners in Crl.OP.No.19826/2020 are concerned, they are only the brother and husband of the first accused and that there is no specific allegation against them.

6. Heard the learned counsel on either side. Perused the entire materials available on record.

7. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and the fact that specific allegations are attributed only to the petitioner in Crl.OP.No.19746 of 2020/A1, this Court is not inclined to grant bail to the petitioner in Crl.OP.No.19746 of 2020/A1. Accordingly, Criminal Original Petition No.19746 of 2020 is dismissed as against the petitioner/A1.

8. As far as the petitioners in Crl.OP.No.19826/2020 are concerned, since there is no specific allegations against them, this Court is inclined to grant bail to the petitioners in Crl.OP.No.19826 of 2020 subject to the following conditions:

(a) Accordingly, the petitioners in CrI.OP.No.19826/2020 are ordered to be released on bail on condition to execute a separate 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, Thiruthuraipoondi, 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 petitioners in CrI.OP.No.19826/2020 on their release from prison, shall report before the respondent everyday at 10.30 a.m. until further orders;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

9. With the above directions, Criminal Original Petition No.19826 of 2020 is ordered.

-sd/-

21/12/2020

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,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB JAIL FOR WOMAN, THIRUVARUR.

4 THE JAILER
DISTRICT PRISON, NAGAPATTINAM.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

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

CRL OPs.19746 & 19826/2020

Date :21/12/2020

cs 22/12/2020

सत्यमेव जयते

WEB COPY