

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.20161 of 2020

J.Moses

.. Petitioner

Vs.

The State rep. by
The Inspector of Police
Thirupathur All Women Police Station
Thirupathur
Thirupathur District
Cr.No.17 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.17 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.Suthan

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 354A, 354D of IPC, Section 4 of Tamil Nadu Woman Harassment Act, 2002 and Section 67 of Information Technology Act, in Crime No.17 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Saktheeswari is that she was an inmate in the hostel run by YMCA for the past 3 months. The petitioner, who is the secretary of the hostel invited her to his house and he often attempted to misbehave with her and that he had also sent whatsapp message and SMS troubling her. Whiles on 11.11.2020, he called her to his office and attempted to misbehave with her and

thereby, she escaped from there. Thereafter, she informed the same to the Hostel Secretary Mr.Essakial and also to the President of YMCA one Wilsto and thereafter, an enquiry was conducted on 22.11.2020 and since no action was taken, she was depressed and thereafter, she lodge a complaint to the police.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case, due to dispute between the members in administering the association. He would further submit that the petitioner has been working as Correspondent of the Institution for the past 39 years and presently, the petitioner is working as Executive Secretary of YMCA Boys' Division, Thirupathur and Correspondent and Warden of the YMCA Brown Memorial Higher Secondary School at Thirupathur and also incharge of the hostel. He would further submit that some people antagonized with the petitioner, have engaged the de-facto complainant to give a false complaint alleging that abusive messages have been sent by the petitioner. He would further submit that the petitioner has not sent any abusive messages to the de-facto complainant. The internal enquiry was also conducted by the Institution and they found that the petitioner has not committed any offence. He would further submit that the petitioner is prepared to abide by any stringent condition and also co-operate with the investigation. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner who is the correspondent and warden of the YMCA School attempted to sent obscene messages to the de-facto complainant. Further, he had also attempted to misbehave with the de-facto complainant.

5. Heard both sides and perused the entire materials on record and the FIR and also the messages alleged to have sent by the petitioner to the de-facto complainant.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels, 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 No.I, Thirupathur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten 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 for a period of two weeks and thereafter, on every Monday 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 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].

[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 NO.I,
THIRUPATHUR.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUPARTHUR ALL WOMAN POLICE STATION,
THIRUPTHUR,
THIRUPATHUR DISTRICT

CC to K.SUTHAN Advocate on payment of necessary charges

CRL OP.20161/2020

Date :22/12/2020

MK:06/01/2021



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