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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2020

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cr1.OP.(MD)No.6190 of 2020

Sankar

... Petitioner/Accused No.1

Vs.

1.State through
The Sub-Inspector of Police,
Sipcot Police Station,
Thoothukudi District.
Crime No.85 of 2020

...1st Respondent/Complainant

2.Mrs.Sapetha

...2nd Respondent/Defacto
Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code seeking a direction to the II Additional Sessions cum PCR Court, Tirunelveli, Tirunelveli District (Special Court for SC / ST [POA] Act Cases), to consider the bail application of the petitioners / accused on the same day in Crime No.85 of 2020 on the file of the respondent Police, on the same day of their surrender.

For Petitioner : Mr.V.Rajiv Rufus

For R.1 : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

O R D E R

The petitioner is arrayed as first accused in Crime No.85 of 2020, on the file of the SIPCOT Police Station, Thoothukudi District, registered for the offence punishable under Sections 448, 381, 509, 506(i) IPC; Section 23 of Juvenile Justice (Care & Protection) Act, 2000; and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST [POA] Act, 2015. The case in Crime No.85 of 2020 was registered at the instance of the second respondent herein and the petitioner / first accused has filed this petition seeking a direction to the learned Judge, Special Court for trying the cases under SC / ST (POA) Act, to consider their bail application on the same day of his surrender.



2. The case of the complainant is that the second accused Mariyammal was working as a Housemaid in the defacto complainant's house and she used to do the work from 06.30 pm to 09.30 pm. The defacto complainant is working as an Inspector of Police and her husband is working in the Revenue Department. Her children were also attending Tuition for their studies. Taking advantage of the position, the second accused / Mariyammal invited the first accused to their house and the first accused came to the complainant's house on 07.03.2020 and stayed in their house for nearly 20 minutes. The son of the defacto complainant noted down the unusual slippers found in their house and informed his mother / defacto complainant. The defacto complainant verified the CCTV footage and found this petitioner had visited her house on the date of occurrence. In view of the incident, the defacto complainant sacked the second accused from the job and in retaliation, the first accused along with the husband of the second accused and others came to the defacto complainant's house on 08.03.2020, abused her by degrading her community. Hence, the complaint.

3. According to the learned Counsel for the petitioner, the petitioner and the second accused are working in ALS Shipping Company, Tuticorin and on 07.03.2020, the petitioner met the second accused to give the salary slip of the second accused, as she fail to collect the same from the company. Since the first accused / petitioner met the second accused in the house of the defacto complainant, the defacto complainant under a wrong presumption that they used her house for their illegal relationship, brutally assaulted the second accused, which was videographed by her neighbours. The videograph of the brutal attack of the defacto complainant / Inspector of Police went viral in the social media and based on that, a departmental action has been taken against the defacto complainant and she was transferred.

4. Though the petitioner is no way connected for the video published against the defacto complainant, in order to wreck vengeance on the petitioner and the second accused, the defacto complainant / Inspector of Police has foisted two false cases in Crime Nos.69 and 85 of 2020 on the file of the first respondent Police. The facts in both the cases in Crime Nos.69 and 85 of 2020 are one and the same. This Court, in Crl.OP.(MD)No.6178 of 2020 granted anticipatory bail to the petitioner in Crime No.69 of 2020. In short, the grievance of the petitioner is that since the department has initiated action against the conduct of the defacto complainant, these complaints are foisted against him and the other accused.

5. The learned Additional Public Prosecutor, on instructions, submitted that no one is injured in this case and also confirmed the grant of anticipatory bail to the petitioner in Crime No.69 of 2020.

<https://highcourtservices.gov.in/highcourtservices/> would submit that there are allegations of missing of



jewels also in this case.

6. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the State. Notice to the second respondent is dispensed with.

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7. A perusal of the First Information Report in Crime Nos.69 and 85 of 2020 would show that both the cases relate to the very same incident and the missing of jewels is very well recorded in the earlier complaint dated 08.03.2020.

8. This Court, in CrI.OP.(MD)No.6178 of 2020 granted anticipatory bail to the petitioner in the following terms:

"4. The de-facto complainant as well as his wife were upset that the petitioner had met Mariammal in the house of the de-facto complainant. There was an unpleasant issue on this matter. The de-facto complainant's wife has been videographed kicking the petitioner herein. This was prominently telecast in the local media. It appears that departmental action has been taken against the de-facto complainant's wife and she has also been transferred. The petitioner's counsel would state that as a counter-blast as many as two cases were registered against the petitioner and one is the case in Crime No.69 of 2020 and the another one has been given by the de-facto complainant's wife in Crime No.85 of 2020 on the file of the respondent police.

5. In view of the above, I am inclined to grant anticipatory bail to the petitioner with certain conditions."

9. The present complaint is lodged only on 20.03.2020, as if the petitioner went to the defacto complainant's house and abused her by degrading her community.

10. Considering the facts and circumstances of the case and that no one is injured in this case, this Court is of the view that interest of justice will be served, permitting the petitioner to surrender as prayed for.

11. Accordingly, the petitioner is directed to surrender before the learned II Additional Sessions Judge, designated Court for trial of cases of the Schedule Caste/Schedule Tribes Act, Tirunelveli within a period of six weeks from the date of receipt of a copy of this order. In the event of the petitioner surrender, the learned II Additional Sessions Judge, designated Court for trial of cases of the Schedule Caste/Schedule Tribes Act, Tirunelveli shall consider his bail application on the same day on merits in accordance with law. The petitioner shall file his surrender application three days prior to the date of surrender, so that the compliance as required under Section 15(A) of the SC/ST Act is complied with. In the



meantime, if the petitioner is arrested the direction will become infructuous. Therefore, the respondent Police is restrained from arresting the petitioner for a period of six weeks.

12.This Criminal Original Petition is allowed on the above terms.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The IInd Additional Sessions Cum PCR Court,
(Special Court For SC/ST Act Cases)
Tirunelveli.
- 2.The Sub-Inspector of Police,
Sipcot Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.