

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Ninth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.3153 & 4281 of 2021

NIHAS ALI [PETITIONER IN CRL.O.P.NO.3153/2021]

1 K.M.IBRAHIMSHA [PETITIONER IN CRL.O.P.NO.4281/2021]
2 AHSYAMMAL
3 PARITH BEGUM

Vs

STATE REP BY [RESPONDENT IN BOTH THE PETITIONS]
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UDUMALPET,
TIRUPPUR DISTRICT.
(CRIME NO.01/2021)

For Petitioner : M/S.B.MOHAN Advocate [CRL.O.P.NO.3153/2021]

For Petitioner : M/S.A.P.SATHYAMURTHY, Advocate
[CRL.O.P.NO.4281/2021]

For Respondent : MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR
[IN BOTH THE PETITIONS]

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 376(2)(f), 376(2)(n), 109, 509, 506(i) of IPC in Cr.No.1 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A1/Nihas Ali is the husband of the defacto complainants' aunt and he(A1) continuously raped the defacto complainant and taken photographs and video of the defacto complainant when she was unconscious. Taking advantage of this, A1 threatened the defacto complainant and on compulsion, he had sexual intercourse with her and also received money on various occasions. Based on the complaint lodged by the defacto complainant, the respondent police registered a case against the petitioners in both the cases.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and there was a family dispute between the defacto complainant and her husband. Due to which, she lodged a false complaint against the petitioners. Hence, the learned counsel prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that all the accused persons joined together and allowed A1 to sexually harass the defacto complainant. The investigation is still pending. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. Considering the fact that there is a serious allegation against A1, this Court is not inclined to grant anticipatory bail to the petitioner (A1) in Crl.OP.No.6673 of 2021 and insofar as the petitioners 1 to 3 (A2 to A5) in Crl.OP.No.4281 of 2021 are concerned, there is no serious allegation against them, this Court is inclined to grant anticipatory bail to the petitioners (A2 to A4).

6.Accordingly, the petitioners (A2 to A4) are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate-I, Udumalpet**, on condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only) each**, with two sureties each 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 and on further condition that:

(a)the petitioners (A2 to A4) and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner(A2) shall report before the respondent police daily at 10.30 a.m. until further orders and the petitioners (A3 & A4) shall report before the respondent police as and when required for interrogation;

(c)the petitioners (A2 to A4) shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners (A2 to A4) shall not abscond either during investigation or trial;

(e)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 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]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. In the result, the petition in Crl.OP.No.3153 of 2021 is dismissed and the petition in Crl. OP.No.4281 of 2021 is allowed.

-sd/-

09/04/2021

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,
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
NO.I, UDUMALPET.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UDUMALPET,
TIRUPPUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S.A.P.SATHYAMURTHY, Advocate on payment of
necessary charges SR NO.4612

CRL OP.3153 & 4281/2021

Date :09/04/2021

TA-17/04/2021