

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.4668 of 2021

M.Sathya Prakash

... Petitioner

Vs.

The State rep. By
The Inspector of Police,
Karumandurai Police Station,
Salem District.
(Crime No.38 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.38 of 2021 on the file of the respondent Police.

For Petitioner : Mr.L.Rajendran

For Respondents : Mrs.M.Prabhavathi
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is the sole accused. The petitioner, who was arrested and remanded to judicial custody on 01.02.2021 for the offence punishable under Sections 417, 376, 506(i) of I.P.C. and 66E, 67 and 67A of I.T. Act, in Crime No.38 of 2021, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant loved each other and on the promise of getting marry, he had sexual intercourse with her. Thereafter, he refused to marry her and he has got married with another girl. Subsequently, the petitioner has called the defacto complainant and took her to a forest area, once again, he had sexual intercourse with her, taken videograph and sent the same to his friend in whatsapp. Hence, based on the complaint given by the defacto complainant, a criminal case was registered against the petitioner. Accordingly, he was arrested and remanded to judicial custody on 01.02.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that he is an innocent person and he has been falsely implicated in the present case. He would submit that earlier, both the petitioner and the defacto complainant loved each other and thereafter, they were separated. The petitioner has got married another girl and only in order to take revenge, the present false complaint has been given. He would submit that the investigation is almost over, he has no bad

antecedents and he is in custody from 01.02.2021. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that on the promise of marrying the defacto complainant, the petitioner sexually assaulted her and thereafter, he has cheated her and got married another lady. Once again, they have developed intimacy, they had sexual intercourse, the petitioner has videographed the same and forwarded the same to his friend. Now, the respondent police had seized the mobile phone and deleted the video recorded in it. She would submit that the investigation is almost completed and he has no bad antecedents. Hence, she vehemently opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the mobile phone has been seized and the videograph recorded in it was also deleted, the investigation is almost completed, and also considering the period of incarceration suffered by the petitioner from 01.02.2021, 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 No.II, Attur 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 daily 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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

26/03/2021

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,
NO.II, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

5 THE INSPECTOR OF POLICE,
KARUMANDURAI POLICE STATION,
SALEM DISTRICT

CC to M/S. L.RAJENDRAN Advocate on payment of necessary charges
Sr.4089

सत्यमेव जयते

CRL OP.4668/2021

Date :26/03/2021

RVR 29/03/2021

WEB COPY