

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 24.02.2021

Orders Pronounced on: 03.03.2021

CORAM :-

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.6067 of 2020

T.Parameswaran

... Petitioner

-Versus-

State Rep. by
Inspector of Police,
W-24, All Women Police Station,
Teynampet, Chennai.
[Crime No.05 of 2020]

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest in Crime No.05 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.V.Veluchamy

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

: Mr.John Sathyan for intervenor

O R D E R

(The case has been heard through video conference)

Apprehending arrest at the hands of the respondent police in connection with a case in Crime No.05 of 2020 for the alleged offence under Section 67 of The Information Technology Act and Section 509 of IPC, the petitioner, who is the sole accused, has come forward with this petition seeking anticipatory bail.

2. I have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor and the learned counsel for the intervenor and also perused the records carefully.

3. According to the prosecution, the petitioner who was working as a Food-Delivery Man for a restaurant in Chennai. The de facto complainant ordered for some food items, while delivering the same, there was a wordy altercation between the petitioner and the de facto complainant in which the petitioner, who was in an inebriated mood, abused the de facto complainant in filthy language and further infuriated by the incident, the petitioner uploaded the mobile number of the de facto complainant on social

media platform branding her as a call girl. On seeing the the same, several unknown persons had started contacting her on mobile. In those circumstances, a case was registered on the complaint from the de facto complainant for the above said offences.

4. The learned counsel for the petitioner submitted that the petitioner hails from a very decent and respectable family and he is graduated in MBA. The petitioner was working as a food delivery-man in a restaurant. On the date of occurrence, while delivering the food items to the de facto complainant, there was a wordy altercation in which the de facto complainant abused the petitioner and in retaliation to the same, the petitioner also abused the de facto complainant. But, he had not committed any offence as alleged and he has been falsely implicated in the case.

5. The learned counsel further submitted that immediately after the occurrence, the petitioner approached the de facto complainant and tendered his unconditional apology but, the de facto complainant refused to accept the same and lodged the complainant exaggerating the real facts. The learned counsel lastly submitted that the petitioner has root in the society and he would not abscond or tamper with any witness and he is ready to abide by any conditions that may be imposed by this court.

6. The learned counsel appearing for the intervenor submitted that the de facto complainant is a widow and an actress in television and she had lost her husband very recently. She hails from a respectable and decent family. While delivering the food ordered by her, the petitioner, who was in an inebriated mood, abused her vulgarly and thereafter, he had also uploaded the mobile number of the de facto complainant on social media branding her as call girl. On seeing the mobile number of the de facto complainant on social media, several unknown persons had started contacting her on mobile. The petitioner deliberately uploaded her mobile phone number of the de facto complainant with an intention to insult her modesty and de fame her reputation

7. The learned Additional Public Prosecutor appearing for the respondent opposed the grant of anticipatory bail to the petitioner contending that the petitioner had intentionally uploaded the mobile number of the de facto complainant branding her as call girl and investigation is yet to be completed. According to him, nature of the allegations require custodial interrogation of the petitioner and if the petitioner is released on bail, there is possibility of tampering with the witnesses and hampering the investigation and also for abscondance.

8. I have considered the rival submissions carefully.

9. The occurrence is said to have taken place on 27.02.2020. The allegation is that while delivering the food items to the de facto complainant, there was a wordy altercation in which the petitioner abused the de facto complainant in a filthy language and thereafter, deliberately uploaded her mobile number on social media branding her as call girl. Hence, this case came to be registered on a complaint from the de facto complainant.

10. No doubt, the offences alleged are serious in nature involving character assassination of a women. However, the occurrence had taken place one year ago. The petitioner is a young man and stated to be graduated in business administration. The offence under Section 509 of IPC is bailable. In so far as the other offence punishable under Section 67 of The Information Technology Act, it is compoundable as the petitioner is the first offender. Now, it is stated that substantial part of investigation is already completed and therefore, the custodial investigation may not be required at this stage. It is also not the case of the prosecution that the police could not reach the petitioner after the registration of the case and he was absconding. The learned Additional Public Prosecutor fairly submitted that no bad antecedent is reported against the petitioner. The apprehension of the prosecuting agency regarding the chances of the petitioner influencing the witnesses and tamper with the evidence could be redressed by imposing stringent conditions. Considering the above and all other circumstances of the case, 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 XVIII Metropolitan Magistrate, Saidapet, Chennai, on executing 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 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. until further orders and further he shall make himself available for interrogation as and when required by the police.

[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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate himself /Trial Court 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/-
03/03/2021

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 METROPOLITAN MAGISTRATE NO.XVIII,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
W-24 ALL WOMEN POLICE STATION,
TEYNAMPET, CHENNAI

+1CC to V.VELUCHAMY Advocate on payment of necessary charges
SR NO.2739

CRL OP.6067/2020

Date :03/03/2021

MK:16/03/2021