

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl. O.P. No. 10550 of 2021

A.Ragu

... Petitioner/Accused No. 1

-vs-

The State of Tamil Nadu,
Rep. by the Inspector of Police,
W-16, All Women Police Station,
Chennai - 12.

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973, praying to enlarge the Petitioner/Accused on bail in the event of his arrest pending investigation in Crime No. 9 of 2020 on the file of the Respondent.

For Petitioner : Mr. C.K.M.Appaji

For Respondent : Mr. J.C.Durairaj,
Counsel appearing for the Government.

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 offences publishable under Sections 417, 376 and 109 of the Indian Penal Code, 1860, later altered to offences punishable under Sections 354 and 417 of the Indian Penal Code, 1860, in Crime No. 9 of 2020 on the file of the Respondent Police, seeks anticipatory bail.

2. The case of the prosecution as per the De-facto Complainant is that A1 had fallen in love with the De-facto Complainant and on false promise, he had induced the De-facto Complainant and had physical relationship with her and thereafter, refused to marry her and cheated her. A2 and A3, who are the mother and sister of A1, have threatened and demanded money from the De-facto Complainant. Hence, the complaint.

3. The Learned Counsel for the Petitioner would submit that the Petitioner is A1 in this case. He would further submit that this is the fourth application for anticipatory bail and the earlier applications for anticipatory bail in Crl. O.P. No. 13253 of 2020 was dismissed against the Petitioner on 07.09.2020 and Crl. O.P. No. 17061 of 2020 was dismissed on 04.11.2020 and Crl. O.P. No. 37 of 2021 was dismissed as withdrawn on 08.02.2021. He would further submit that the earlier applications for anticipatory bail were dismissed on the ground that investigation was pending in respect of the case registered for the offences punishable under Sections 417, 376 and 109 of the Indian Penal Code, 1860. He would further submit that the Respondent has completed the investigation and filed the final report against the Petitioner for offences punishable under Sections 354 and 417 of the Indian Penal Code, 1860, and on account of the present change of circumstances, the petition has been renewed. He would further submit that the case has been taken up in C.C. No. 43 of 2021 and now pending on the file of the Additional Mahila Court, Egmore, Chennai. He would further submit that it is a case of consensual affair between the Petitioner and the De-facto Complainant who is two years elder to him and she is well aware of the consequences of the affair between them. He would further submit that the change of circumstance is that the investigation has been completed and the custodial interrogation of the Petitioner is not required at this stage. He would further submit that statement has also been recorded from the victim girl under Section 164 of the Code of Criminal Procedure, 1973, wherein she is alleged to have given a detailed version of the relationship between her and the Petitioner. He would further submit that the reading of the statement recorded from the victim girl under Section 164 of the Code of Criminal Procedure, 1973, would clearly prove that it is a case of consensual affair where the victim has willingly involved in relationship with the Petitioner. Hence, he prays for grant of anticipatory bail to the Petitioner.

4. The Learned Counsel appearing for the Government would submit that the Petitioner on the false promise of marrying the De-facto Complainant had sexual intercourse with the victim and later cheated her. He would further submit that the investigation in this case is over and statement has also been recorded from the victim girl under Section 164 of the Code of Criminal Procedure, 1983. However, he would oppose for grant of anticipatory bail to the Petitioner.

5. Heard the Learned Counsels and perused the final report and the statement recorded from the victim girl under Section 164 of the Code of Criminal Procedure.

6. The earlier applications for anticipatory bail was dismissed at the stage when the case was under investigation for the offences punishable under Sections 417, 376 and 109 of the Indian Penal Code, 1860. Now the investigation has been completed and final report has

been filed against the Petitioner for the offences punishable under Sections 354 and 417 of the Indian Penal Code, 1860, and the case has been taken up in C.C. No. 43 of 2021 on the file of the Additional Mahila Court, Egmore, Chennai.

7. Taking into consideration the facts and circumstances and that the investigation has been completed and final report has been filed for the offences punishable under Section 354 and 417 of the Indian Penal Code, 1860, this Court is of the opinion that the custodial interrogation of the Petitioner may not be required at this stage. In view of the same, 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 Additional Mahila Court, Egmore, Chennai, on condition that the Petitioner shall execute a separate 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 Respondent/Police may obtain a copy of their Aadhaar Card or Bank Pass Book to ensure their identity;

(c) the Petitioner shall report before the Learned Additional Mahila Court, Egmore Chennai on all working days 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 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 of India in P.K. Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(g) If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A of the India Penal Code, 1860.

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

-sd/-
06/07/2021

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 ADDITIONAL MAHILA COURT,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-16, ALL WOMEN POLICE STATION,
CHENNAI-12.

+1 CC to M/S.C.K.M.APPJI Advocate on payment of necessary charges
SR.No.7110

CRL OP.10550/2021

सत्यमेव जयते Date : 06/07/2021

cs 12/07/2021

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