

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.20515 of 2020

K.Nithish Kumar

...Petitioner

Vs.

State Rep. by
Inspector of Police,
Mecheri Police Station,
Salem District.
Crime No.806 of 2020

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of arrest in Crime No.806 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 294(b), 509 and 506(i) of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002 in Crime No.806 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 there is a fight between the petitioner and the *de facto* complainant, during which, the petitioner is said to have taken photographs of the *de facto* complainant in inappropriate position, when the same was asked by her, the petitioner abused the *de facto* complainant with filthy language and also threatened with dire consequences. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the

petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner and the *de facto* complainant are neighbours and there was a wordy quarrel between them, where a false case has been foisted against the petitioner as if the petitioner had taken photographs of the *de facto* complainant. He would submit that the petitioner produced the mobile phone to the respondent police. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner deliberately taken inappropriate photographs of the *de facto* complainant, when the same was questioned by her, the petitioner abused her with filthy language and also threatened with dire consequences. He would further submit that the mobile phone has been recovered from the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels and also the fact that the mobile phone has been recovered from the petitioner, 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 Judicial Magistrate-II, Mettur, on condition that the petitioner shall execute a 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 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 for a period of two weeks and thereafter, as and when required for interrogation.

[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 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.

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

-sd/-
10/02/2021

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 II,
METTUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
SALEM DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MECHERI POLICE STATION, SALEM DISTRICT.
CR.NO.806 OF 2020

CC to M/S.R.NALLIYAPPAN Advocate on payment of necessary charges

CRL OP.20515/2020

Date :10/02/2021

EP-23/02/2021